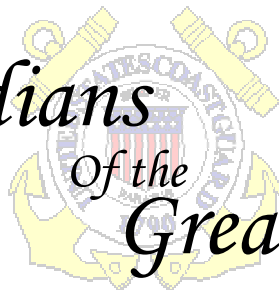


Guardians Of the Great Lakes



9th DISTRICT LOCAL NOTICE TO MARINERS 21/03 WEEKLY EDITION 2003 29 JULY 2003

Issued by: Commander (oan)
Ninth Coast Guard District
1240 East Ninth Street,
Cleveland, OH 44199-2060
Telephone: (216) 902-6070

Numbers within brackets [/] refer to the LNM where information was first printed. Direct questions about this LNM to the above address. The Weekly Supplemental editions of the Local Notice to Mariners contain only information subsequent to the issue date of the Monthly edition. To ensure having complete information concerning the waterways within the Ninth Coast Guard District, consult this Monthly Edition 17/03.

District Nine Internet Address <http://www.uscg.mil/d9/wvm/oan>

** NIS watchstander, 24 hours a day at (703) 313-5900 ** **Internet Address** <http://www.navcen.uscg.gov/>
Light List Reference: Commandant Publication P16502.7, VOL VII, 2002 Edition / Coast Pilot Reference: 2002 U.S. Coast Pilot 6 Great Lakes 32nd Edition

The Local Notice to Mariners is available on the Internet at <http://www.navcen.uscg.gov/lnm/d9/default.htm>. By utilizing this, the Local Notice to Mariners will be available to you 7 days in advance. You will also have links to other government agencies' web pages including the US Army Corps of Engineers and the National Ocean Service.

REPORT DISCREPANCIES IN AIDS TO NAVIGATION TO THE NEAREST COAST GUARD UNIT

The Ninth District and all Group offices for their areas of responsibility issue a **BROADCAST NOTICE TO MARINERS**.

The following *Broadcast Notice to Mariners* have been incorporated into this week's Local Notice to Mariners:

Ninth District	C039-03 through C043-03	Group Buffalo, NY	B093-03 through B100-03
Group Detroit, MI	D210-03 through D220-03	Group Grand Haven, MI	G090-03 through G097-03
Group Milwaukee, WI	M098-03 through M104-03	Group Sault Ste Marie, MI	S136-03 through S143-03

I. SPECIAL NOTICES since LNM 20/03

USACE NOTICE TO NAVIGATION INTERESTS

The following Federal Channels have conditional surveys recently completed and can be seen at the USACE Detroit District web site at

<http://www.lre.usace.army.mil/OandM/o&m.html> and the USACE Buffalo District website at: <http://www.lrb.usace.army.mil/waterways/survey/2002data.html>

Oconto Harbor, WI Hammond Bay Harbor, MI [21/03]

U.S. COAST PILOT 6 – 2003 (33rd) Edition – Change No. 1

Change No. 8, 9, 10, 11, and 12 to the U.S. Coast Pilot 6, Great Lakes 2003 33rd Edition can be found in Enclosure (3) or at the following web address:

<http://critcorr.ned.noaa.gov/> [21/03]

LORAN-C OPERATIONS – LORSTA BAUDETTE – Baudette, MN

This is a proposal to authorize LORSTA BAUDETTE, Baudette, Minnesota (RATE 8290-W/8970-Y) unusable from 1200 GMT TO 2100 GMT 06 Aug 2003. The alternate time will be from 1200 GMT TO 2100 GMT 07 Aug 2003. Objections will be considered until 1600 GMT 31 JULY 2003. Users shall address inquiries to the Northeast U.S. LORAN-C Chain Operations Control Officer (LT Luci Bookhammer) at (703) 313-5887. [16/03]

LORAN-C OPERATIONS – LORSTA BAUDETTE – Baudette, MN

This is a proposal to authorize LORSTA BAUDETTE, Baudette, Minnesota (RATE 8290-W/8970-Y) unusable from 1500 GMT TO 1700 GMT 07 Aug 2003. The alternate time will be from 1500 GMT TO 1700 GMT 08 Aug 2003. Objections will be considered until 1600 GMT 31 JULY 2003. Users shall address inquiries to the Northeast U.S. LORAN-C Chain Operations Control Officer (LT Luci Bookhammer) at (703) 313-5887. [17/03]

DGPS OFF AIR APPROVAL – Milwaukee, WI DGPS Site

Primary off air period from 1400Z (0900 local) 08 August 2003 until 1600Z 08 August 2003. Alternate date is 09 August 2003 1400Z-1600Z. Off air required to conduct Raytheon Technical services groom. [18/03]

DGPS OFF AIR APPROVAL – Sturgeon Bay, WI DGPS SITE

Primary off air period from 1400Z (0900 local) 04 AUG 03 until 1600Z 04 August 2003. Alternate date is 05 August 2003, from 1400Z-1600Z. Off air required to conduct Raytheon technical services groom. [18/03]

DGPS OFF-AIR APPROVAL – Wisconsin Point, WI DGPS SITE

Off air time is approved for Wisconsin Point, WI DGPS Site for scheduled preventive maintenance. Off air authorized 30 Jul 03 1400Z-1600Z. Alternate date/time is 31 Jul 03 1400Z-1600Z. [20/03]

NEW YORK STATE CANAL SYSTEM – Erie Canal – Chart 14786

Mariners are advised that the North span of the Herkimer Guard Gate is closed to navigation. The gate is in the closed position, and will remain in the water until repairs can be completed. Markers have been placed to direct mariners away from the obstruction. The south gate is open, with no hindrance or delays to navigation. All east and west bound traffic must use the south span. For information and updates, please call 1-800-4-CANAL-4, or visit the New York State Canal System web site at www.canals.state.ny.us. [20/03]

LAKE ERIE AND LAKE ONTARIO – Active Shippers

The NY-PA Operations and Maintenance Branch of the U.S. Army Corps of Engineers, Buffalo District is compiling a contact of active shippers on Lakes Erie and Ontario. Active shippers on these lakes are requested to provide address and phone number to Debora Lucas at US Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207. If you would like a copy of the list upon completion, please contact Debora Lucas at debora.j.lucas@isace.army.mil. [20/03]

LAKE ERIE – Cleveland Harbor – Chart 14839

The Coast Guard has established a temporary aid in Cleveland Harbor Western Basin aid is, "Cleveland Harbor Western Basin Channel Lighted Buoy 2" (LLNR-4220.1). aid is located in the following position 41-29-45.239N, 081-43-47.543W, in 21 Feet of water aid is set in close proximity to breakwall. Characteristic is FL R 2.5 SEC. All mariners are requested to make a note of the change and use caution while transiting the area. [21/03]

LAKE ERIE – Moss Point to Vermilion (LORAN C) – Chart 14826

Great Lakes Environmental Research Laboratory has deployed a yellow scientific research buoy, FI Y 4s, off Cleveland, OH in position 41-43-34.6N 81-42-21.2W in 71 feet of water. Buoy will be deployed until 15 October 2003. Buoy consists of a 4 ft. diameter by 26 inch high yellow foam can buoy with 13 inches of freeboard. Buoy has an 8 ft. tower with antennas, radar reflector, nav light and solar panel. In addition to the mooring chain a communication cable extends to the lake bottom. Additionally there are two small yellow spar buoys (FI Y 4s each) marking the two-point anchor system. Each spar buoy is approximately 30 feet from the main buoy. An additional 18 inch yellow sphere buoy, FI Y 4s, with nav light and radar reflector, will be deployed approximately 300 feet north of the main buoy and another 13 inch orange sphere buoy, FI Y 4s, with nav light will be deployed 30 feet south of the main buoy on 4 August 2003. The south buoy marks an electronics package on the bottom connected to the main buoy with a communications cable. For further information contact Mr. Ron Muzzi at (734) 741-2007. Supersedes 20/03 [21/03]

LAKE HURON – Port Huron, MI – Scientific Mooring – Chart 14865

Scientific mooring 2003-2A-21, located in position 43 02 45N 082 24 48W, is reported extinguished [18/03]

LAKE HURON – Forty Mile Point (LORAN C) – Chart 14864

Great Lakes Environmental Research Laboratory will deploy a yellow scientific research buoy, FI Y 4s, off Alpena, MI in position 44-59N 83-17-24W in 66 feet of water. Buoy deployment date has changed to 18 August and will be deployed until 15 October 2003. Buoy consists of a 4 ft. diameter by 26 inch high yellow foam can buoy with 13 inches of freeboard. Buoy has an 8 ft. tower with antennas, radar reflector, nav light and solar panel. In addition to the mooring chain a communication cable extends to the lake bottom south of the main buoy. Additionally there are two small yellow spar buoys (FI Y 4s each) marking the two-point anchor system, and a small yellow spar buoy (FI Y 4s) marking the bottom package. Each spar buoy is approximately 30 feet from the main buoy. For further information contact Mr. Ron Muzzi at (734) 741-2007. Supersedes 20/03 [21/03]

LAKE MICHIGAN – Chicago Sanitary Ship Canal/Des Plains River, IL – Increased Rate Flow – Chart 14927

Mariners are advised that the Chicago water reclamation district has increased the flow rate from 7000 to over 10,000 cubic feet per second on the Chicago sanitary and ship canal/Des Plains river mariner are advised to use caution when transiting the area between Lockport lock and dam and Brandon road lock and dam for further information contact MSO Chicago at (630) 986-2175. Supersedes 20/03 [21/03]

LAKE SUPERIOR – Beaver Bay to Pigeon Point – Chart 14967

Minnesota Power, Inc will deploy a sub-surface thermal monitoring system in the vicinity of the Taconite Harbor Energy Center, Schroeder, MN on 6 August 2003. The monitoring system consists of a sub-surface 18 inch plastic buoy (30 feet below the surface) in position 47-31-47 N 90-54-20 W in 70 feet of water. From the sub-surface buoy a Tipline thermal cable will descend to the lake bottom then run along the lake bottom for 1000 feet to the shoreline. A three point anchoring system will be used and each anchor point will be marked on the surface by a standard unlighted regulatory buoy. Each regulatory buoy will be approximately 50 feet from the position listed above. The sub-surface buoy will be deployed year round and the regulatory buoys will be used during ice free months (approximately April to November). For further information contact Mr. Scott Jasperson at (218) 722-5642, extension 6461. [21/03]

II. DISCREPANCIES IN AIDS TO NAVIGATION as of 1000 Jul 29, 2003

This section lists all changes to discrepancies since Local Notice to Mariners 20/03. The following abbreviations are used:

B	Buoy	BKW	Breakwater	(C)	Canadian Aid
HC	Channel	DAM	Damaged	DAYBD	Dayboard
DBN	Daybeacon	DECOM	Decommissioned	DISCON	Discontinued
DEST	Destroyed	ENT	Entrance	ESTB	Established
EXT	Extinguished	FS	Fog Signal	HBR	Harbor
IMCH	Improper Characteristic	INOP	Inoperative	JCT	Junction
LB	Lighted Buoy	LBB	Lighted Bell Buoy	LGB	Lighted Gong Buoy
LHB	Lighted Horn Buoy	LIB	Lighted Ice Buoy	LT	Light
LWP	Left Watching Properly	OBST	Obstruction	OFFSTA	Off Station
(P)	Private Aid	PARSUB	Partially Submerged	PAROBSC	Partially Obscured
PHD	Pierhead	RBN	Radiobeacon	RAC	Racon
DIM	Reduced Intensity	RELDRG	Relocated for dredging	RELSHL	Relocated for Shoaling
RELCON	Relocated for Construction	RF	Range Front	RPTD	Reported
RR	Range Rear	(SLS)	St. Lawrence Seaway Devel Corp	SND CONT	Sounding Continuously
TRUB	Temp Replace Unlighted Buoy	TRLB	Temp Replace Lighted Buoy	TRLT	Temp Replace Light
W/M	Winter Mark				

A. RECENT DISCREPANCIES

LLNR	Name of aid	Status	Charts Affected	BNM Ref.	LNM Ref.
3165	TOWAWANDA INTAKE CRIB LIGHT (P)	LT EXT	14832	B100-03	21/03
4220	CLEVELAND HBR W BASIN CH LT 2	LT EXT/DBN DEST	14826	D125-03	13/03
4420	BEAVER CREEK ENTR LT 4 (P)	IMCH	14826	D175-03	17/03
4785	CEDAR POINT MARINA S BSN LT 1 (P)	IMCH	14845	D204-03	20/03
5015	WEST SHORE WATER SKI RAMP LT (P)	MISSING	14927	D164-03	16/03

6014	COOLEY CNL B 6	OFFSTA	14846	D220-03	21/03
6070	MAUMEE BAY LB 6	OFFSTA	14847	D219-03	21/03
8140	GREAT LAKES STEEL SHL LB 1 (P)	LT EXT	14848	D156-03	15/03
8145	GREAT LAKES STEEL SHL LB 3 (P)	LT EXT	14848	D184-03	18/03
8150	DETROIT EDISON CELL LT S (P)	LT EXT	14848	D184-03	18/03
8155	DETROIT EDISON CELL LT N (P)	LT EXT	14848	D184-03	18/03
8165	DETROIT LIME COMPANY LT (P)	LT EXT	14848	D184-03	18/03
9350	ST CLAIR RIVER N CHL B 12	OFFSTA	14850	D215-03	21/03
10130	HARBOR BEACH LT	LT EXT	14846	D137-03	13/03
10210	PT AUX BARQUES LT	LT IMCH	14862	D205-03	20/03
11550	PRESQUE ISLE LT	LT DIM	14864	S103-03	17/03
12275	ISLE ISIDORE LT (P)	LT EXT	14885	S131-03	19/03
12770	DE TOUR REEF LT	RACON INOP	14880	S105-03	17/03
15120	KEWEENAW UP ENTR LT	F/S IMCH	14972	S098-03	16/03
17535	NAMAKAN LAKE LB 27	SOLAR ARRAY MISSING	14994	S088-03	13/03
18620	PENTWATER N PHD LT 3	F/S IMCH	14907	G097-03	21/03
19880	JACKSON PARK OUTER HBR LT 4 (P)	LT IMCH	14927	M060-03	14/03
19900	59TH STREET YACHT HBR N PIER LT (P)	LT EXT	14927	M072-03	16/03
20729	SOUTH SHORE PARK ENTR LB 1 (P)	LT IMCH	14924	M042-03	11/03
20757	MICKINLEY MARINA LIGHT 2 (P)	LT EXT	14924	M102-03	21/03
21475	MANISTIQUE LT	F/S INOP	14908	S133-03	20/03
22130	GREEN BAY ENTR LT	F/S INOP	14918	M034-03	09/03

B. DISCREPANCIES CORRECTED

LLNR	Name of aid	Status	Charts Affected	BNM Ref.	LNMR Ref.
5390	WEST HBR ACCESS CH B 3	LWP	14842	D208-03	20/03
20975	ALGOMA LT	LWP	14910	M033-03	08/03
4030	CLEVELAND WW INTAKE CRIB LT (P)	LWP	14826	D189-03	18/03
4980	COMMODORE BAY MARINA ENT LT 2L (P)	LWP	14844	D132-03	13/03
14685	WISCONSIN ELECTRIC POWER CO LB 3(P)	RESET ON STATION	14970	S136-03	20/03

III. TEMPORARY CHANGES IN AIDS TO NAVIGATION

A. TEMPORARY CHANGES

LLNR	Name of aid	Status	Charts Affected	BNM Ref.	LNMR Ref.
4380	LORAIN HBR JNCT LT	TEMP LOWER FP	14841		19/03
6450	LUNA PIER MARINA BKW LT 1 (P)	DISCON	14846	D224-01	23/01
6455	LUNA PIER MARINA BKW LT 2 (P)	DISCON	14846	D224-01	23/01
7750	MAMAJUDA LT	DISCON	14848	D020-97	15/97
8856	GAUKLER SHL WRK B	ESTB TRUB	14853	D143-03	15/03
10310	PORT AUSTIN B 7	RMVD WATER LEVEL	14863	D138-03	14/03
11900	MULLET LAKE LT 24	MISSING	14886	S072-01	12/01
11915	MULLET LAKE LT 24A	MISSING	14886	S072-01	12/01
12100	BURT LAKE OBSTRUCTION DBN	MISSING	14886	S094-01	16/01
14540	LITTLE LAKE HBR LT 2	TEMP DISESTB	14962	S046-03	06/03
16470	ST LOUIS RVR B 79	REL SHL	14975	S069-03	10/03
16475	ST LOUIS RVR B 80	REL SHL	14975	S069-03	10/03
16480	ST LOUIS RVR B 81	REL SHL	14975	S069-03	10/03
17079.1	FOUR MILE BAY BUOY 7	ESTB TRUB	14999		12/02
17346	BRULE NARROWS B 28A	ESTB TRUB	14997		17/03
17371	HITCHCOCK BAY B 33	ESTB TRUB	14997		17/03
17376	HITCHCOCK BAY B 34A	ESTB TRUB	14997		17/03
18290	DUNCAN L CLINCH YACHT HARBOR LT (P)	DISCON	14913	S144-02	31/02
19051	GRAND RIV B 15A	ESTB TRUB	14933		05/02
20930	TWO RIVERS S PHD LT	TEMP DISESTB	14903	M067-03	15/03
21591	LITTLE FISHDAM RIVER ACCESS LT (P)	DISCON	14908	M050-01	09/02
21791	CEDAR RIVER ENT B 2A	ESTB TRUB	14909		09/02
21792	CEDAR RIVER ENT B 2B	ESTB TRUB	14909		09/02

B. RECENT TEMPORARY CHANGES CORRECTIONS

LLNR	Name of aid	Status	Charts Affected	BNM Ref.	LNMR Ref.
NONE.					

IV. CHART CORRECTIONS since LNM 20/03

Corrective action affecting charts is contained in this section. Chart corrections are listed numerically by chart number. The correction listed pertains to that chart only. It is up to the mariner to decide what charts are to be corrected. The following example explains the individual elements of a typical correction.

Chart number	Chart edition	Edition date	Last Local Notice to Mariners	Reference datum	Source Agency of correction	Current Notice to Mariners
14922	17th ed. MANITOWOC AND SHEBOYGAN HARBORS Change	4/25/92	Last LNM 12/93 Manitowoc South Breakwater Light to "3" Fl G 2.5s, 37ft 8 StM	NAD 83	(CGD9) 44°05'29.00"N	17/93 087°38'37.00"W
	Corrective action	Object of corrective action			Position	

The letter (M) immediately following the chart number indicates that the correction should be applied to the metric side of the chart only. (Temp) indicates that the chart correction action is temporary in nature. Courses and bearings are given in degrees clockwise from 000° true. Bearings of light sectors are toward the light from lakeward.

14826	27th ed. MOSS POINT TO VERMILION (LORAN C) Change	11/02	Last LNM 17/03	NAD 83	(CGD9) 41°28'47.70"N	21/03 082°11'15.07"W
14829	5th ed. GENEVA TO LORAIN (LORAN C) Change	12/2/00	Last LNM 17/03	NAD 83	(CGD9) 41°28'47.70"N	21/03 082°11'15.07"W
14830	30th ed. WEST END OF LAKE ERIE (LORAN C) Change	06/03	Last LNM 14/03	NAD 83	(CGD9) 41°28'47.70"N	21/03 082°11'15.07"W
14830	30th ed. WEST END OF LAKE ERIE (LORAN C) Insets: Add Substitute	06/03	Last LNM 14/03	NAD 83	(NOS NW 6785) 41°53'58.00"N 41°53'34.30"N 41°53'32.70"N 41°53'30.30"N 41°54'02.20"N	21/03 083°21'11.50"W 083°20'17.90"W 083°20'12.00"W 083°20'01.10"W 083°21'37.80"W
14841	27th ed. LORAIN HARBOR Change	3/3/01	Last LNM 20/03	NAD 83	(CGD9) 41°28'47.70"N	21/03 082°11'15.07"W
14846	11th ed. WEST END OF LAKE ERIE (PAGE 16) Add Substitute	3/17/01	Last LNM 18/03	NAD 83	(CGD9) 41°53'58.00"N 41°54'02.20"N 41°53'34.30"N 41°53'32.70"N 41°53'30.30"N	21/03 083°21'11.50"W 083°21'37.80"W 083°20'17.90"W 083°20'12.00"W 083°20'01.10"W
14961	11th ed. LAKE SUPERIOR (MERCATOR PROJECTION) (LORAN C) Relocate	8/28/99	Last LNM 15/03	NAD 83	(CGD9) 47°34'19.40"N 48°04'19.20"N	21/03 086°32'58.70"W 087°46'34.86"W
14967	22nd ed. BEAVER BAY TO PIGEON POINT (LORAN C) Change	08/3/96	Last LNM 20/03	NAD 83	(CGD9) 47°44'38.30"N	21/03 090°20'26.80"W
14992	10th ed. SAND POINT LAKE TO LAC LA CROIX, Including Crane Lake and Little Vermillion Lake, Minnesota/Ontario Relocate	6/29/91	Last LNM 27/91	NAD 83	(CGD9) 48°17'35.00"N 48°17'30.70"N 48°20'05.10"N 48°19'49.80"N 48°19'39.50"N	21/03 092°27'56.90"W 092°27'56.90"W 092°27'55.50"W 092°27'56.70"W 092°27'52.20"W
14993	11th ed. NAMAKON LAKE - EASTERN PART Sand Point Lake Buoy 18 to:	5/4/91	Last LNM 01/02	NAD 83	(CGD9) 48°24'38.20"N	21/03 092°27'24.20"W
14994	10th ed. EASTERN KABETOGAMA LAKE AND WESTERN NAMAKON LAKE Relocate	5/19/90	Last LNM 9/94	NAD 83	(CGD9) 48°28'02.60"N 48°28'47.50"N 48°27'39.00"N 48°27'32.50"N 48°27'16.80"N	21/03 092°43'01.70"W 092°42'27.50"W 092°42'51.50"W 092°42'48.50"W 092°43'17.50"W

		Kubel Island Buoy 18 to:	48°27'15.10"N	092°43'37.50"W		
		Sexton Island Buoy 20 to:	48°26'54.60"N	092°44'51.60"W		
		Sweetnose Island Buoy 24 to:	48°26'42.30"N	092°46'36.90"W		
		Kabetogama Lake Buoy 29 to:	48°26'10.70"N	092°48'35.50"W		
		Kabetogama Lake Buoy 32 to:	48°26'21.70"N	092°53'03.50"W		
		Green Island Buoy 34 to:	48°26'24.70"N	092°53'53.90"W		
		Kabetogama Lake Junction Buoy to:	48°27'13.10"N	092°56'11.10"W		
		Kabetogama Lake Buoy 38 to:	48°27'52.60"N	092°57'43.50"W		
		Pin Cherry Island Buoy 38A to:	48°28'26.50"N	092°58'59.50"W		
14995	11th ed.	10/021	Last LNM 35/02	NAD 83	(CGD9)	21/03
		WESTERN KABETOGAMA LAKE				
	Relocate	Kabetogama Lake Buoy 42 to:	48°28'46.00"N	093°00'48.20"W		
14996	15th ed.	6/12/99	Last LNM 01/02	NAD 83	(CGD9)	21/03
		BORDER LAKES-RAINY LAKE- BIG ISLAND, MINNESOTA TO OAKPOINT ISLAND, ONTARIO				
	Relocate	Canoe Channel Buoy 37 to:	48°32'22.70"N	092°45'02.70"W		
		Canoe Channel Buoy 38 to:	48°32'16.80"N	092°39'50.50"W		
		Canoe Channel Buoy 39 to:	48°32'16.80"N	092°38'38.70"W		
		Kettle Channel Buoy 02 to:	48°31'02.10"N	092°37'43.00"W		
		Kettle Channel Buoy 04 to:	48°30'45.20"N	092°37'32.30"W		
14997	15th ed.	7/04/98	Last LNM 10/03	NAD 83	(CGD9)	21/03
		RAINY LAKE - DRYWEED ISLAND TO BIG ISLAND				
	Relocate	Rainy Lake Buoy 08 to:	48°37'24.00"N	093°05'07.80"W		
		Olsons Reef Buoy 10OR to:	48°36'57.90"N	092°59'34.90"W		
		Canoe Channel Island South Shore Buoy 01 to:	48°36'23.70"N	093°06'05.70"W		
		Canoe Channel Island South Shore Buoy 03 to:	48°36'29.70"N	093°05'00.10"W		
		Canoe Channel Island South Shore Buoy 05 to:	48°36'20.70"N	093°04'30.50"W		
		Canoe Channel Island South Shore Buoy 07 to:	48°36'22.40"N	093°02'57.20"W		
		Canoe Channel Island South Shore Buoy 08 to:	48°36'21.40"N	093°01'40.10"W		
		Canoe Channel Island South Shore Buoy 10 to:	48°36'13.30"N	092°59'49.70"W		
		Canoe Channel Buoy 15 to:	48°36'23.70"N	092°57'13.10"W		
		Brule Narrows Buoy 18 to:	48°36'15.60"N	092°55'35.10"W		
		Brule Narrows Buoy 19 to:	48°36'15.10"N	092°55'29.70"W		
		Brule Narrows Buoy 20 to:	48°36'05.20"N	092°55'12.80"W		
		Brule Narrows Buoy 22 to:	48°36'03.70"N	092°55'08.70"W		
		Brule Narrows Buoy 28 to:	48°35'43.30"N	092°53'55.10"W		
		Brule Narrows Buoy 29 to:	48°35'40.20"N	092°53'45.40"W		
		Hitchcock Bay Buoy 35A to:	48°32'53.40"N	092°53'03.80"W		
14998	15th ed.	9/12/98	Last LNM 1/96	NAD 83	(CGD9)	21/03
		RAINY LAKE - INTERNATIONAL FALLS TO DRYWEED ISLAND				
	Relocate	Rainy Lake Buoy 02 to:	48°37'07.00"N	093°20'49.90"W		
		Rainy Lake Buoy 03 to:	48°38'12.70"N	093°15'48.30"W		
		Re Sucker Island Buoy 06 to:	48°37'32.70"N	093°11'04.80"W		
		Canoe Channel Buoy 14 to:	48°36'26.00"N	093°13'15.60"W		
		Fraser Island Buoy 17A to:	48°36'14.00"N	093°09'33.60"W		
		Canoe Channel South Shore B01 to:	48°36'23.70"N	093°06'05.70"W		

V. ADVANCE NOTICE OF CHANGES TO AIDS TO NAVIGATION since LNM 09/03

LAKE ERIE – Oswego Harbor, Buffalo Harbor, and Fairport Harbor - Chart 14820

The Coast Guard is proposing to change the fog signal commissioning and decommissioning dates from April 1st and December 1st, to May 15th and October 15th, for Oswego Harbor Light (LLNR 2080), Buffalo Harbor Light (LLNR 2680), and Fairport Harbor West Breakwater Light (LLNR 3870). [09/03]

LAKE MICHIGAN - Lake Macatawa, Chart 14932

The Coast Guard is proposing to change the flashing characteristics of the following buoy's in Lake Macatawa: Lake Macatawa Lighted Buoy 1 - from Fl G 4s to Fl G 2.5s; Lake Macatawa Lighted Buoy 6 - from Fl R 4s to Fl R 6s; Lake Macatawa Lighted Buoy 10 - from Fl R 4s to Fl R 2.5s; and Lake Macatawa Lighted Buoy 16 - from Fl R 4s to Fl R 2.5s. This change will better serve the mariner when trying to identify the buoys in Lake Macatawa. [09/03]

LAKE MICHIGAN - Big Bay, Chart 14932

The Coast Guard is proposing to change Big Bay Buoy's 1 and 2 to lighted buoys. Each will have a flashing 6 second characteristic. [09/03]

VI. PROPOSED CHANGES IN AIDS TO NAVIGATION since LNM 12/03

St. Clair River/Black River, Charts 14852 and 14853

The Coast Guard is proposing to relocate St. Clair/Black River Light (LLNR 9965) to the southern tip of the Black River and changing the name to Black River Entrance Light. [17/03]

Lake Ontario/Fort Niagara Light, Charts 14816, 14800, 14806, 14822, and 14001

The Coast Guard is proposing to remove the 3NG Dayboard from Fort Niagara Light. [17/03]

Lake George, Potagannissing Bay, Les Cheneaux Islands – Charts 14885, 14883, 14882, 14881

The Coast Guard is proposing to add Lights to the following buoys:

East Neebish Island B 9	LLNR 13790	Quick Flashing Green
East Neebish Island B 13	LLNR 13805	Flashing Green 4 seconds
Lake George Ch B 6	LLNR 13850	Flashing Red 2.5 seconds
Lake George Ch B 9	LLNR 13865	Flashing Green 2.5 seconds
Sugar Island B 6A	LLNR 13915	Quick Flashing Red
Wreck Island B 6	LLNR 12715	Flashing Red 2.5 seconds
Grape Island B 10	LLNR 12753	Flashing Red 4 seconds
Les Cheneaux Middle Entrance B 5	LLNR 12340	Flashing Green 2.5 seconds
Les Cheneaux Middle Entrance B 10	LLNR 12355	Quick Flashing Red
Mackinac Bay Pass B 10	LLNR 12410	Flashing Red 2.5 seconds
Cedarville CH B 10	LLNR 12305	Quick Flashing Red
Cedarville CH W B 33	LLNR 12520	Quick Flashing Green [12/03]

VII. GENERAL NOTICES**NEW YORK STATE BARGE CANAL – NY – Seneca River, Bridge Construction, Chart 14786**

Contractors have begun construction work on the new NY31 (Belgium Road) bridge, (E-72) at mile 163.1 over Erie Canal, Seneca River, in Onandaga County, NY, and will continue throughout the 2003 season. Work hours are 0700 to 1700, Monday through Friday with occasional Saturdays. Work barges will be placed in the canal to facilitate this work and may be in the center of the channel at various times. When barges are secured to the piers, the horizontal channel is approximately 148 feet. When barges are in center of channel, the horizontal clearance is approximately 72 feet. Work boats and an escort boat will be in the area during work hours. The barges will be illuminated during non-work hours but will remain in the channel. [21/03]

LAKE HURON – Port Huron, MI - Maintenance Dredging – Chart 14862

MCM Marine Incorporated will be conducting maintenance dredging in Port Sanilac on 02 Aug 2003-07 Aug 2003 and in Lexington Harbor on 07 Aug 2003-15 Aug 2003. Operations will be 24 hours a day 7 days a week. The dredge Arthur J can be contacted on VHF-FM channels 16 and 18. Boaters are advised to stay clear of discharge pipeline marked by buoys. For further information please contact Joe McCoy at 906-632-4316. [21/03]

LAKE HURON - Saginaw River, MI - Advance Notice - Chart 14867

The Veterans Memorial Bridge at Mile 5.60 over Saginaw River will open for passing vessels if at least 3-hours advance notice is provided between the hours of 0800 and 1800 from August 4 to August 7, 2003, for scheduled bridge inspection. A manlift will be utilized from the deck of the bridge and may intermittently be under the bridge, temporarily reducing vertical navigation clearances. The bridge may also open randomly during the inspection to allow for vessel passage. The bridge will announce openings during these hours. Mariners should contact the bridge to provide advance notice. [21/03]

LAKE HURON – Port Huron – Dredging – Chart 14865

Viteri Construction Management Inc./E.C Korneffel CO. will be conducting dredging at USCG Mooring Facility Monday through Saturday, hours of operation will be 0700 to 1730 starting on 30 Aug 03 and ending on 15 Sep 03. [21/03]

LAKE MICHIGAN – Dredging, Diving, and Construction – Chart 14905

Great Lakes Dock and Materials, L.L.C. will commence dredging, diving and underwater construction of the Covert Generating Company – Lake Michigan Water Intake has been extended to August 29 2003. Operations will be 24 hours a day, 7 days a week. Tugs FISHER HAYDEN, DULUTH, and SARAH B can be contacted via channels 16 and 18 VHF-FM. Two temporary mooring buoys will be on scene for equipment. Mariners should use extreme caution when transiting the area. Traffic should stay clear within 500 yards of operations. For further information, contact George Bailey at (231) 759-8230. Supersedes 05/03 [21/03]

SUMMARY OF DREDGING/CONSTRUCTION OPERATIONS IN EFFECT

The LNM column is where the entry originally appeared and where detailed information may be obtained. The dates listed for completions are tentative.

<u>Location</u>	<u>LNM</u>	<u>Subject</u>	<u>Hours / Days</u>	<u>Until</u>
<u>LAKE ONTARIO</u>				
Rochester, NY	01/02	BRIDGE CONSTRUCTION	0700-1630/ M-F	THROUGH 2003
<u>NEW YORK STATE CANAL</u>				
North of Lock C-9	18/03	DREDGING OPERATIONS	24 HRS/ 7 DAYS A WK	AUG 2003
Seneca River, NY	21/03	BRIDGE CONSTRUCTION	0700-1700 MON-SAT	THROUGH 2003
<u>LAKE ERIE</u>				
Buffalo Harbor, NY	05/02	BRIDGE MAINTENANCE	24 HRS/ 7 DAYS A WK	THROUGH 2003
Buffalo Harbor, NY	09/02	BRIDGE MAINTENANCE	24 HRS/ 7 DAYS A WK	MAY 2004
Toledo, OH	14/02	BRIDGE CONSTRUCTION	24 HRS/ 7 DAYS A WK	THROUGH 2003
Toledo, OH	01/03	BRIDGE PIER REHABILITATION	24 HRS/ 7 DAYS A WK	THROUGH 2003
Lorain, OH	05/03	EAST PIER REPAIRS	0700-1800/M-SAT	30 SEPT 03
Cleveland, OH	14/03	PILE DRIVING, EXCAVATION, ETC.	24 HRS/ 7 DAYS A WK	DEC 2004
Cleveland, OH	15/03	MECHANICAL DREDGING	24 HRS/ 7 DAYS A WK	30 AUG 03
Lorain, OH	16/03	MAINTENANCE DREDGING	24 HRS/ 7 DAYS A WK	02 AUG 03
Sandusky, OH	18/03	MAINTENANCE DREDGING	24 HRS/ 7 DAYS A WK	01 OCT 03
<u>ST. CLAIR RIVER</u>				
Walpole Island	07/03	DIVING OPERATIONS	0700-SUNSET/ M-F	TBD
<u>LAKE HURON</u>				
Lake Huron to Lake Erie	01/03	OBSTRUCTION REMOVAL / SURVEY OPERATIONS	0700-1900/ M-F	THROUGH 2003
Lake Huron, WI	20/03	BRIDGE MAINTANCE	0800-1800 AUG 07	AUG 07
Port Sanilac Harbor, MI	21/03	MAINTANCE DREDGING	24 HRS/7 DAYS A WK	07 AUG 03
Port Huron, MI	21/03	DREDGING	0700-1730 Mon-Sat	15 SEP 03
Saginaw River, MI	21/03	ADANCE NOTICE	0800-1800	07 AUG 03

Location	LNLM	Subject	Hours / Days	Until
<u>LAKE MICHIGAN</u>				
Covert Generating Company, MI	21/03	DREDGING, DIVING, AND CONSTRUCTION	24 HRS/ 7 DAYS A WK	29 AUG 03
Milwaukee Harbor, WI	07/03	BRIDGE MAINTENANCE/CLOSURE	0800-1400/ VARIOUS	16 SEP 03
Two Rivers, WI	08/03	BREAKWALL RECONSTRUCTION	0500-2300/ 7 DAYS A WK	30 AUG 03
Milwaukee, WI	BNM 10-03	BRIDGE DEMOLITION AND CONSTRUCTION	0600-1800/ M-F	THROUGH 2003
Chicago, IL	03/03	BRIDGE CLOSURES FOR SPECIAL EVENTS	0600-1200/ 24 AUG 03	24 AUG 03
Chicago, IL	03/03	BRIDGE CLOSURES FOR SPECIAL EVENTS	0430-1130/ 12 OCT 03	12 OCT 03
Chicago, IL	08/03	CONSTRUCTION BARGE	24 HRS/ 7 DAYS A WK	TBD
Calumet Harbor, IL	19/01	VESSEL REPORTING PROCEDURES	24 HRS/ 7 DAYS A WK	THROUGH 2003
Calumet, IL	19/03	BRIDGE MAINTENANCE/ CLEARANCE REDUCTION	24 HRS/MON-SAT	06 SEP 03
Bridgeman, MI	11/03	DIVING OPERATIONS	24 HRS/ 7 DAYS A WK	15 AUG 03
Grand Haven, MI	13/03	BRIDGE CLOSURE FOR SPECIAL EVENT	2230-0100/ 2-3 AUG 03	03 AUG 03
Straits of Mackinac	17/03	PIPELINE SPAN REMEDIATION	24 HRS/ 7 DAYS A WK	15 NOV 03
Grand Traverse Bay Harbor, MI	17/03	HYDRAULIC DREDGING	24 HRS/ 7 DAYS A WK	01 AUG 03
Cedar River, MI	17/03	DOCK CONSTRUCTION	0700-1700/ M-SAT	20 NOV 03

LAKE WINNEBAGO

Oshkosh, WI	11/03	WATER INTAKE INSTALLATION	24 HRS/ 7 DAYS A WK	30 NOV 03
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ST. MARYS RIVER

St. Mary's Falls Canal, MI	14/03	DREDGING/ 2-HR ADVANCE NOTICE	24 HRS/ 7 DAYS A WK	20 SEP 03
Sault Ste. Marie, MI	19/03	PIER REPAIRS	24 HRS/ 7 DAYS A WK	20 NOV 03
Bayfield Channel	18/03	DREDGING/SOAL REMOVAL	24 HRS/ 7 DAYS A WK	TBD

LAKE SUPERIOR

Ashland, WI	13/03	MAINTENANCE	0700-1730/ 7 DYAS A WK	TBD
Ontonagon, MI	14/03	BREAKWATER REPAIRS	0700-1730/ M-TH	TBD
Black River Harbor, MI	14/03	BREAKWATER REPAIRS	0700-1730/ M-TH	TBD

GREAT LAKES - GENERAL - MARINE EVENTS

Events listed below are those events that do not have accompanying special local regulations. Mariners transiting these areas are not required to contact the U.S. Coast Guard, but are asked to exercise caution when navigating through the area of the event.

Location	Events	Dates	Time (Local)
<u>LAKE ERIE</u>			
Cleveland, OH	Red Bull Wings over Cleveland	July 30-Aug 02	0800-2000
Toledo, OH	Ford YC Mid Summer Race #2	July 30	1830-2300
Maumee, OH	Great Dragon Maumee Boat Festival	Aug 02	0500-1700
Cuyahoga River, OH	Western Reserve Rowing Assoc SLR Races	Aug 09	0800-1200
Toledo, OH	Ford YC Annual Regatta	Aug 09	1300-1700
Huron, OH	City of Huron Fireworks	Aug 09	2200-2330
Toledo, OH	Ford YC Annual Night Race	Aug 13	1300-1700
Cleveland, OH	CYC's MHYC Falcon Cup Race	Aug 16	0800-1800
Wyandotte, MI	Downriver Dynamite Inboard Races	Aug 08-10	0900-1700
Put in Bay, OH	J & J Sales Island Run	Aug 16	0900-1800
Toledo, OH	Ford YC Adam and Eve Race	Aug 17	1300-1700
Port Clinton, OH	FLW Outdoors Everstart Series	Aug 20-24	0400-2000
<u>LAKE ST. CLAIR</u>			
Grosse Point, MI	Grosse Point YC annual Regatta	Aug 09-10	0900-1800
Lake St Clair	St Clair Shores Venetian Festival & Fireworks	Aug 09	2000-2400
Belle Ile, MI	DYC Sears Cup Race	Aug 10-13	0900-1800
Belle Ile, MI	Edison Boat Club Regatta	Aug15	1700-2300
Grosse Point, MI	Grosse Point Sail Club Ladies Race	Aug 15	1830-2130
Grosse Pointe	Grosse Pointe YC Fleet Review	Aug 16	1700-1900
Detroit River, MI	Edison Boat Club Regatta	Aug 16	1000-1500
Belle Ilse, MI	Chrysler Jeep APBA Cold Cup	Aug 21-22	0700-2000
Windsor, CA	Windsor Fire works	Aug 24	2130-2215
<u>ST CLAIR RIVER</u>			
St Clair, MI	St Clair Classic off shore Race	Aug 02-03	1100-1600
Grosse Ile, MI	Grosse Ile YC Down River Race	Aug 02	1000-1400
Clinton River to Black Creek, MI	Boat town U.S.A. Festival of lights	Aug 02	2230-2400
Marine, MI	Marine City Lions Fireworks	Aug 09-10	2130-2330
<u>LAKE HURON</u>			
Mackinaw City to St Clair Shores	Water Worriers PWC Endurance Ride	July28-Aug 03	0800-1700
Saginaw River, MI	Midwest Watercross Tour	Aug 01-03	0800-2000
Alpena, MI	Great Lakes Professional Angling Association Tournament Series	Aug-02-03	0500-1400
Hoyles Marina, MI	Wal-Mart RCL Walleye Circuit	Aug 02	0700-1630
Port Huron, MI	Port Huron YC Lexington Race	Aug 02	0900-1500
Caseville, MI	Catamaran Racing Assoc Regatta	Aug 02-03	0800-1700
Bay City, MI	City of Bay city Boat Parade	Aug 02	0900-1000
Port Huron to Lexington, MI	Port Huron John Blunt Race	Aug 03	0900-1500
Caseville, MI	Charity Inland Race	Aug 09	0900-1600
Port Huron, MI	Port Huron YC Race	Aug 10	1200-1600
Bay, City MI	Tall Ships celebration	Aug 14-18	0800-1200
Port Huron to Port Sanilac	Port Huron to Port Sanilac	Aug 16-17	0900-1600
Bay City, MI	Tall Ships Celebration FIREWORKS	Aug 16	0800-1200
Rogers City, MI	Great Lakes Professional Angling Association Tournament Series	Aug 16-17	0500-1400
Bay City, MI	2003 Tall Ships Challenge - Race Four	Aug 18	1600 Start

Edison Boat Club Regatta, MI	Caseville Row, Row your Cardboard Boat	Aug 16	1600-1800
Port Huron, MI	Port Huron YC Fall Series #1	Aug 24	1200-1600
<u>LAKE MICHIGAN</u>			
Chicago, IL	2003 Tall Ships Challenge - Race Three	Aug 04	1500 Start
Muskegon, MI	Tall Ships 2003	Aug 8-10	1000-2300
Muskegon to Ludington, MI	Catamaran Racing Association of Michigan, Michigan Gold Coast 200	Aug 25-26	0800-1700
Frankfort Leelanau, MI	Catamaran Racing Association of Michigan, Michigan Gold Coast 200	Aug 27-28	0800-1700
Lower Lake Michigan	Annual Chicago to St. Joseph, Michigan Yacht Race	Aug 29-30	1700 1300

VIII. LIGHT LIST CORRECTIONS, VOL VII, GREAT LAKES since LNM 20/03

(* Denotes the column in which a correction has been made or new information added.)							
(1) No.	(2) Name and location	(3) Position	(4) Characteristic	(5) Height	(6) Range	(7) Structure	(8) Remarks
*Delete Heading							
*LAKE OF THE WOODS							
16930	<i>Pine Creek Lighted Buoy 2</i>		FL R 4s		3	Red.	21/03
*Add Heading to Read:							
*RAINY LAKE (Chart 14997)							
*Dryweed Island to Big Island							
17175	-Buoy 8					Green can.	21/03
*Add Heading to Read:							
*RAINY LAKE (Chart 14998)							
*International Falls to Big Island							
17190	ROBERTS SLAND LIGHT 2	48 37 12 N 93 16 00 W	FL R 4s	27 8	6	TR on skeleton tower.	21/03
*Add Heading to Read:							
*RAINY LAKE (Chart 14997)							
*Dryweed Island to Big Island							
17260	South Shore Buoy 3					Green can.	21/03
*Delete Heading:							
*RAINY LAKE (Chart 14997)							
*Dryweed Island to Big Island							
17270	South Shore Buoy 7					Green can.	21/03
*Add Heading to Read:							
*NAMAKAN LAKE - EASTERN PART (Chart 14993)							
17645	YOUR ISLAND BUOY 9		FL G 6s	25 8	5	SG on skeleton tower.	21/03
*Add Heading to Read:							
*SAND POINT LAKE TO LAC LA CROIX (Chart 14992)							
17685	King Williams Buoy 24					Red nun.	21/03
*Delete Heading:							
*SAND POINT LAKE TO LAC LA CROIX (Chart 14992)							
17700	Crane Lake Buoy 28					Red nun.	21/03

IX. ENCLOSURES

- (1) PROPOSED RULES -- Cuyahoga River, Cleveland, OH -- Safety Zone,
- (2) SAFETY ZONE -- Detroit, MI
- (3) U.S. Coast Pilot 6, Great Lakes 2003 33rd Edition -- Change No. 8, 9, 10, 11, and 12

Ronald F. Silva
Rear Admiral, U. S. Coast Guard
Commander, Ninth Coast Guard District

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 401

[USCG-2002-12840]

RIN 1625-AA74 (Formerly 2115-AG46)

Basic Rates and Charges on Lake Erie and the Navigable Waters From Southwest Shoal to Port Huron, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; change of effective period.

SUMMARY:

The Coast Guard is extending the effective period for the temporary final rule on basic rates and charges on Lake Erie and the navigable waters from Southwest Shoal to Port Huron, MI (District Two, Area 5), to December 24, 2003. Extension of the effective period ensures that the pilotage rates in District Two, Area 5, remain at the current rate while the Coast Guard completes its pending ratemaking project.

DATES:

Effective July 18, 2003, Sec. 401.407(b), suspended at 67 FR 47466, July 19, 2002, effective July 19, 2002, until July 21, 2003, will continue to be suspended through December 24, 2003; and Sec. 401.407(c), temporarily added at 67 FR 47466, July 19, 2002, effective July 19, 2002, until July 21, 2003, will continue to be extended through December 24, 2003.

ADDRESSES:

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT:

If you have questions on this rule, call Tom Lawler, Project Manager, Office of Great Lakes Pilotage, Coast Guard, Commandant (G-MW-1), at 202-267-1241. If you have questions on viewing to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, at 202-366-5149.

SUPPLEMENTARY INFORMATION:

Regulatory History

On July 19, 2002, we published a temporary final rule entitled "Basic Rates and Charges on Lake Erie and the Navigable Waters From Southeast Shoal to Port Huron, MI" in the Federal Register [67 FR 47464].

Background and Purpose

On July 12, 2001, the Coast Guard published a final rule in the Federal Register [66 FR 36484] amending the ratemaking for the Great Lakes Pilotage. The new rates became effective August 13, 2001. Those rates were challenged in District Court by the Lake Pilots Association, representing the pilots in District Two. While preparing our defense, we discovered that we had inadvertently accounted for delay and detention hours in District Two differently from how we had in Districts One and Three. We also noticed minor errors in computing the rates in District Two. The Coast Guard has recently completed a study that addresses, among other things, the issue of how we should count hours of delay and detention when computing bridge-hours in all three Districts. Also the Coast Guard is currently in the process of adjusting the pilotage rates in all three Districts. See [USCG-2002-11288].

Discussion of Temporary Rule

We did not publish a notice of proposed rulemaking (NPRM) in order to extend this temporary final rule, and it takes effect immediately. Delay in implementing this rule would be contrary to the public interest. This rulemaking will maintain the status quo allowing litigation and associated rulemaking to be completed.

While not agreeing with the allegations contained in the complaint of the Lakes Pilots' Association, for the [Page 43471] reasons stated, the Coast Guard agreed to the relief sought in the lawsuit and temporarily restored the rates that were effective in Area 5 before August 13, 2001. The Coast Guard believes that this measure was in the best interest of the public, and mitigated the effects, if any, of the Coast Guard's disparate treatment of the pilots in District Two, when accounting for hours of delay and detention. These reasons remain just as valid today as they were when

the temporary final rule was first published. The Coast Guard sees no benefit to restoring the 2001 rates in Area 5. Therefore, the Coast Guard finds under 5 U.S.C. 553(b)(B) and (d)(3), respectively, that neither notice-and-comment rulemaking nor 30 days' notice of effective date is required. After the Coast Guard took this action, the District Court issued its ruling in the Lake Pilots Association lawsuit granting partial summary judgment for each side. The Court's decision was made considering a number of factors, including the Coast Guard's action with regard to the pilotage rates in Area 5. The Lake Pilots Association has appealed the District Court decision. Maintaining the current rates in Area 5 while the appeal is pending will facilitate the appellate process.

In addition, the Coast Guard has proposed new pilotage rates for all three Districts, including Area 5 of District Two. Maintaining the current Area 5 rates while that ratemaking project is completed will enable the Coast Guard to devote its scarce resources to establishing new rates for all areas, rather than engaging in a separate rulemaking just for Area 5. We will therefore continue to devote our energy to promulgating an interim rule and/or final rule updating the pilotage rates on the Great Lakes rather than start a separate rulemaking for Area 5.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has been reviewed by the Office of Management and Budget under that Order. It is not "significant" under the regulatory policies and procedures of Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Assessment under the regulatory policies and procedures of the DHS is unnecessary; however, a Regulatory Assessment has been prepared and may be viewed in the docket for this project.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule was not preceded by an NPRM and therefore is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for potential economic impact on small entities.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

Collection of Information

This temporary final rule calls for no new collection of information under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501-3520].

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, the effects of this rule are discussed elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the Federal Register [66 FR 36361 (July 11, 2001)] requesting comments on how to best carry out the Order. We invite your comments on how this rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not[[Page 43472]]likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this temporary final rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) [42 U.S.C. 4321-4370f], and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(a), of the Instruction, from further environmental documentation. An "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are available in the docket where indicated under the section of this preamble on "Public Participation and Request for Comments". We will consider comments on this section before we make the final decision on whether this rule should be categorically excluded from further environmental review. List of Subjects in 46 CFR Part 401

Administrative practice and procedure; Great Lakes; Navigation (water); Penalties; Reporting and recordkeeping requirements; Seamen. For reasons discussed in the preamble, the Coast Guard amends 46 CFR part 401 as follows:

PART 401--GREAT LAKES PILOTAGE REGULATIONS

1. Revise the authority citation for part 401 to read as follows:

Authority: 46 U.S.C. 2104(a), 6101, 7701, 8105, 9303, 9304; Department of Homeland Security Delegation No. 0170.1; 46 CFR 401.105 also issued under the authority of 44 U.S.C. 3507.02. In Sec. 401.407, paragraph (b), which was suspended at 67 FR 47464, July 19, 2002, from July 19, 2002, until July 21, 2003, will continue to be suspended through December 24, 2003; and paragraph (c), temporarily added at 67 FR 47464, July 19, 2002, from July 19, 2002, until July 21, 2003, will continue to be extended through December 24, 2003.

Dated: July 18, 2003.

T.H. Gilmour,
Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety,
Security and Environmental Protection.
[FR Doc. 03-18759 Filed 7-18-03; 4:27 pm]

BILLING CODE 4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard
33 CFR Part 165
[CGD09-03-399]
RIN 1625-AA00
Safety Zones; Captain of the Port Detroit Zone
AGENCY: Coast Guard, DHS.
ACTION: Notice of implementation of regulation.

SUMMARY: The Coast Guard is implementing safety zones for annual fireworks displays in the Captain of the Port Detroit Zone during August 2003. This action is necessary to provide for the safety of life and property on navigable waters during these events. These zones will restrict vessel traffic from a portion of the Captain of the Port

Detroit Zone.

DATES:

Effective from 12:01 a.m. on August 1, 2003, to 11:59 p.m. on August 31, 2003.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Junior Grade Brandon Sullivan, U.S. Coast Guard Marine Safety Office Detroit, at (313) 568-9580.

SUPPLEMENTARY INFORMATION:

The Coast Guard is implementing the permanent safety zones in 33 CFR 165.907 (a)(22) and (23) (66 FR 27868, May 21, 2001), for fireworks displays in the Captain of the Port Detroit Zone during August 2003. The following safety zones are in effect for fireworks displays occurring in the month of August 2003:

- (1) Maritime Day Fireworks, Marine City, MI. This safety zone will be enforced on August 9, 2003, from 8 p.m. until 11:59 p.m.
- (2) Venetian Festival Boat Parade & Fireworks, St. Clair Shores, MI. This safety zone will be enforced on August 9, 2003, from 7 p.m. until 11:59 p.m.

In order to ensure the safety of spectators and transiting vessels, these safety zones will be enforced for the duration of the events. In cases where shipping is affected, commercial vessels may request permission from the Captain of the Port Detroit to transit the safety zone. Approval will be made on a case-by case basis. Requests must be made in advance and approved by the Captain of the Port Detroit before transits will be authorized. The Captain of the Port Detroit may be contacted via U.S. Coast Guard Group Detroit on Channel 16, VHF-FM.

[[Page 43927]]

Dated: July 14, 2003.

S.K. Moon,

Lieutenant Commander, Coast Guard, Acting Captain of the Port Detroit.

[FR Doc. 03-18923 Filed 7-24-03; 8:45 am]

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Publication–National Ocean Service–U.S. Coast Pilot 6, and their connecting waterways, 2003 (33rd) Edition. Change No. 08.

Coast Pilot 6 33rd Ed 2003

Corrections

Page 43-Paragraph CFR Box, (insert above Title 21):

Title 15 Commerce and Foreign Trade

(15 CFR 922)

Page 43-Paragraph CFR Box (insert above 21 CFR 1250):

15 CFR 922 National Marine Sanctuary Program

Regulations

(15 CFR 922)

Page 323-Paragraph 211: Delete.

(CL 974/03)

Page 323-Paragraph 215, line 5; read:

shoal area.

The **Thunder Bay National Marine Sanctuary and Underwater Preserve** has been established to protect and preserve a nationally significant collection of approximately 160 shipwrecks, spanning over a century of Great Lakes shipping and maritime history. The sanctuary encompasses 448 square miles of northwest Lake Huron and includes Thunder Bay. (See **15 CFR 922**, chapter 2 for limits and regulations.)
(15 CFR 922)

Publication–National Ocean Service–U.S. Coast Pilot 6, and their connecting waterways, 2003 (33rd) Edition. Change No. 09.

Coast Pilot 6 33rd Ed 2003

Corrections

Page 43-Paragraph 2, insert after:

TITLE 15–COMMERCE AND FOREIGN TRADE

PART 922–National Marine Sanctuary Program Regulations

Subpart A–General

§922.1 Applicability of regulations.

Unless noted otherwise, the regulations in Subparts A, D and E apply to all thirteen National Marine Sanctuaries for which site-specific regulations appear in Subparts F through R, respectively. Subparts B and C apply to the site evaluation list and to the designation of future Sanctuaries.

§922.2 Mission, goals, and special policies.

(a) In accordance with the standards set forth in title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, also known as the National Marine Sanctuaries Act (Act) the mission of the National Marine Sanctuary program (Program) is to identify, designate and manage areas of the marine environment of special national, and in some cases international, significance due to their conservation, recreational, ecological, historical, research, educational, or aesthetic qualities.

(b) The goals of the Program are to carry out the mission to:

(1) Identify and designate as National Marine Sanctuaries areas of the marine environment which are of special national significance;

(2) Provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities;

(3) Support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas, especially long-term monitoring and research of these areas;

(4) Enhance public awareness, understanding, appreciation, and wise use of the marine environment;

(5) Facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities;

(6) Develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas;

(7) Create models of, and incentives for, ways to conserve and manage these areas;

(8) Cooperate with global programs encouraging conservation of marine resources; and

(9) Maintain, restore, and enhance living resources by providing places for species that depend upon these marine areas to survive and propagate.

(c) To the extent consistent with the policies set forth in the Act, in carrying out the Program's mission and goals:

(1) Particular attention will be given to the establishment and management of marine areas as National Marine Sanctuaries for the protection of the area's natural resource and ecosystem values; particularly for ecologically or economically important or threatened species or species assemblages, and for offshore areas where there are no existing special area protection mechanisms;

(2) The size of a National Marine Sanctuary, while highly dependent on the nature of the site's resources, will be no larger than necessary to ensure effective management;

(d) Management efforts will be coordinated to the extent practicable with other countries managing marine protected areas;

(e) Program regulations, policies, standards, guidelines, and procedures under the Act concerning the identification, evaluation, registration, and treatment of historical resources shall be consistent, to the extent practicable, with the declared national policy for the protection and preservation of these resources as stated in the National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*, the Archeological and Historical Preservation Act of 1974, 16 U.S.C. 469 *et seq.*, and the Archeological Resources Protection Act of 1979 (ARPA), 16 U.S.C. 470aa *et seq.* The same degree of regulatory protection and preservation planning policy extended to historical resources on land shall be extended, to the extent practicable, to historical resources in the marine environment within the boundaries of designated National Marine Sanctuaries. The management of historical resources under the authority of the Act shall be consistent, to the extent practicable, with the Federal archeological program by consulting the Uniform Regulations, ARPA (43 CFR part 7) and other relevant Federal regulations. The Secretary of the Interior's Standards and Guidelines for Archeology may also be consulted for guidance. These

§922.3 Definitions.

Act means title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431 *et seq.*, also known as the National Marine Sanctuaries Act.

Active Candidate means a site selected by the Secretary from the Site Evaluation List for further consideration for possible designation as a National Marine Sanctuary.

Assistant Administrator means the Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), or designee.

Benthic community means the assemblage of organisms, substrate, and structural formations found at or near the bottom that is periodically or permanently covered by water.

Commercial fishing means any activity that results in the sale or trade for intended profit of fish, shellfish, algae, or corals.

Conventional hook and line gear means any fishing apparatus operated aboard a vessel and composed of a single line terminated by a combination of sinkers and hooks or lures and spooled upon a reel that may be hand or electrically operated, hand-held or mounted. This term does not include bottom longlines.

Cultural resources means any historical or cultural feature, including archaeological sites, historic structures, shipwrecks, and artifacts.

Director means, except where otherwise specified, the Director of the Office of Ocean and Coastal Resource Management, NOAA, or designee.

Exclusive economic zone means the exclusive economic zone as defined in the Magnuson Fishery Conservation and Management Act, 16 U.S. 1801 *et seq.*

Fish wastes means waste materials resulting from commercial fish processing operations.

Historical resource means any resource possessing historical, cultural, archaeological or paleontological significance, including sites, structures, districts, and objects significantly associated with or representative of earlier people, cultures, maritime heritage, and human activities and events. Historical resources include “submerged cultural resources”, and also include “historical properties”, as defined in the National Historic Preservation Act, as amended.

Indian tribe means any American Indian tribe, band, group, or community recognized as such by the Secretary of the Interior.

Injure means to change adversely, either in the long or short term, a chemical, biological or physical attribute of, or the viability of. This includes, but is not limited to, to cause the loss of or destroy.

Lightering means at-sea transfer of petroleum-based products, materials or other matter from vessel to vessel.

Marine means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, including the exclusive economic zone, consistent with international law.

Mineral means clay, stone, sand, gravel, metalliferous ore, non-metalliferous ore, or any other solid material or other matter of commercial value.

National historic landmark means a district, site, building, structure or object designated as such by the Secretary of the Interior under the National Historic Landmarks Program (36 CFR part 65). *National Marine Sanctuary* means an area of the marine environment of special national significance due to its resource or human-use values, which is designated as such to ensure its conservation and management.

Person means any private individual, partnership, corporation or other entity; or any officer, employee, agent, department, agency or instrumentality of the Federal Government, of any State or local unit of government, or of any foreign government.

Regional Fishery Management Council means any fishery council established under section 302 of the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

Sanctuary quality means any of those ambient conditions, physical-chemical characteristics and natural processes, the maintenance of which is essential to the ecological health of the Sanctuary, including, but not limited to, water quality, sediment quality, and air quality.

Sanctuary resource means any living or non-living resource of a National Marine Sanctuary that contributes to the conservation, recreational, ecological, historical, research, educational, or aesthetic value of the Sanctuary, including, but not limited to, the substratum of the area of the Sanctuary, other submerged features and the surrounding seabed, carbonate rock, corals and other bottom formations, coralline algae and other marine plants and algae, marine invertebrates, brine-seep biota, phytoplankton, zooplankton, fish, seabirds, sea turtles and other marine reptiles, marine mammals and historical resources. For Thunder Bay National Marine Sanctuary and Underwater Preserve, Sanctuary resource means an underwater cultural resource as defined at § 922.191.

Secretary means the Secretary of the United States Department of Commerce, or designee.

Shunt means to discharge expended drilling cuttings and fluids near the ocean seafloor.

Site Evaluation List (SEL) means a list of selected natural and historical resource sites selected by the Secretary as qualifying for further evaluation for possible designation as National Marine Sanctuaries.

State means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, the United States Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States.

Subsistence use means the customary and traditional use by rural residents of areas near or in the marine environment for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles; and for barter, if for food or non-edible items other than money, if the exchange is of a limited and non-commercial nature.

Take or taking means:

(1) For any marine mammal, sea turtle, or seabird listed as either endangered or threatened pursuant to the Endangered Species Act, to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect or injure, or to attempt to engage in any such conduct;

(2) For any other marine mammal, sea turtle, or seabird, to harass, hunt, capture, kill, collect or injure, or to attempt to engage in any such conduct. For the purpose of both (1) and (2) of this definition, this includes, but is not limited to, to collect any dead or injured marine mammal, sea turtle or seabird, or any part thereof; to restrain or detain any marine mammal, sea turtle or seabird, or any part thereof, no matter how temporarily; to tag any sea turtle, marine mammal or seabird; to operate a vessel or

aircraft or to do any other act that results in the disturbance or molestation of any marine mammal, sea turtle or seabird.

Tropical fish means fish of minimal sport and food value, usually brightly colored, often used for aquaria purposes and which lives in a direct relationship with live bottom communities.

Vessel means a watercraft of any description capable of being used as a means of transportation in/on the waters of the Sanctuary.

§922.4 Effect of National Marine Sanctuary designation.

The designation of a National Marine Sanctuary, and the regulations implementing it, are binding on any person subject to the jurisdiction of the United States. Designation does not constitute any claim to territorial jurisdiction on the part of the United States for designated sites beyond the U.S. territorial sea, and the regulations implementing the designation shall be applied in accordance with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party. No regulation shall apply to a person who is not a citizen, national, or resident alien of the United States, unless in accordance with:

- (a) Generally recognized principles of international law;
- (b) An agreement between the United States and the foreign state of which the person is a citizen; or
- (c) An agreement between the United States and the flag state of the foreign vessel, if the person is a crew member of the vessel.

Subpart D—Management Plan Development and implementation

§922.30 General.

(a) The Secretary shall implement each management plan, and applicable regulations, including carrying out surveillance and enforcement activities and conducting such research, monitoring, evaluation, and education programs as are necessary and reasonable to carry out the purposes and policies of the Act.

(b) Consistent with Sanctuary management plans, the Secretary shall develop and implement site-specific contingency and emergency-response plans designed to protect Sanctuary resources. The plans shall contain alert procedures and actions to be taken in the event of an emergency such as a shipwreck or an oil spill.

§922.31 Promotion and coordination of Sanctuary use.

The Secretary shall take such action as is necessary and reasonable to promote and coordinate the use of National Marine Sanctuaries for research, monitoring, and education purposes. Such action may include consulting with Federal agencies, or other persons to promote use of one or more Sanctuaries for research, monitoring and education, including coordination with the National Estuarine Research Reserve System.

Subpart E—Regulations of General Applicability

§922.40 Purpose.

The purpose of the regulations in this Subpart and in Subparts F through R is to implement the designations of the thirteen National Marine Sanctuaries for which site specific regulations appear in Subparts F through R, respectively, by regulating activities affecting them, consistent with their respective terms of designation in order to protect, preserve and manage and thereby ensure the health, integrity and continued availability of the conservation, ecological, recreational, research, educational, historical and aesthetic resources and qualities of these areas. Additional purposes of the regulations implementing the designation of the Florida Keys

and Hawaiian Islands Humpback Whale National Marine Sanctuaries are found at §§922.160, and 922.180, respectively.

§922.41 Boundaries.

The boundary for each of the thirteen National Marine Sanctuaries covered by this part is described in Subparts F through R, respectively.

§922.42 Allowed Activities.

All activities (e.g., fishing, boating, diving, research, education) may be conducted unless prohibited or otherwise regulated in Subparts F through R, subject to any emergency regulations promulgated pursuant to §§922.44, 922.111(c), 922.165, 922.186, or 922.196, subject to all prohibitions, regulations, restrictions, and conditions validly imposed by any Federal, State, or local authority of competent jurisdiction, including Federal and State fishery management authorities, and subject to the provisions of section 312 of the National Marine Sanctuaries Act (NMSA), (16 U.S.C. 1431 *et seq.*). The Assistant Administrator may only directly regulate fishing activities pursuant to the procedure set forth in section 304(a)(5) of the NMSA.

§922.43 Prohibited or otherwise regulated activities.

Subparts F through R set forth site-specific regulations applicable to the activities specified therein.

§922.44 Emergency Regulations.

Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss, or injury, any and all such activities are subject to immediate temporary regulation, including prohibition. The provisions of this section do not apply to the Cordell Bank, Florida Keys, Hawaiian Islands Humpback Whale, and Thunder Bay National Marine Sanctuaries. See §§922.111(c), 922.165, 922.186, and 922.196, respectively, for the authority to issue emergency regulations with respect to those sanctuaries.

§922.45 Penalties.

(a) Each violation of the NMSA or FKNMSPA, any regulation in this part, or any permit issued pursuant thereto, is subject to a civil penalty of not more than \$100,000. Each day of a continuing violation constitutes a separate violation.

(b) Regulations setting forth the procedures governing administrative proceedings for assessment of civil penalties, permit sanctions, and denials for enforcement reasons, issuance and use of written warnings, and release or forfeiture of seized property appear at 15 CFR part 904.

§922.46 Response costs and damages.

Under section 312 of the Act, any person who destroys, causes the loss of, or injures any Sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss or injury, and any vessel used to destroy, cause the loss of, or injure any Sanctuary resource is liable *in rem* to the United States for response costs and damages

resulting from such destruction, loss or injury.

§922.47 Pre-existing authorizations or rights and certifications of pre-existing authorizations or rights.

(a) Leases, permits, licenses, or rights of subsistence use or access in existence on the date of designation of any National Marine Sanctuary shall not be terminated by the Director. The Director may, however, regulate the exercise of such leases, permits, licenses, or rights consistent with the purposes for which the Sanctuary was designated.

(b) The prohibitions listed in Subparts F through P, and Subpart R do not apply to any activity authorized by a valid lease, permit, license, approval or other authorization in existence on the effective date of Sanctuary designation, or in the case of the Florida Keys National Marine Sanctuary the effective date of the regulations in Subpart P, and issued by any Federal, State or local authority of competent jurisdiction, or by any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, or in the case of the Florida Keys National Marine Sanctuary the effective date of the regulations in Subpart P, provided that the holder of such authorization or right complies with certification procedures and criteria promulgated at the time of Sanctuary designation, or in the case of the Florida Keys National Marine Sanctuary the effective date of the regulations in Subpart P, and with any terms and conditions on the exercise of such authorization or right imposed by the Director as a condition of certification as the Director deems necessary to achieve the purposes for which the Sanctuary was designated.

§922.48 National Marine Sanctuary permits— application procedures and issuance criteria.

(a) A person may conduct an activity prohibited by Subparts F through O, if conducted in accordance with the scope, purpose, terms and conditions of a permit issued under this section and Subparts F through O, as appropriate. For the Florida Keys National Marine Sanctuary, a person may conduct an activity prohibited by Subpart P if conducted in accordance with the scope, purpose, terms and conditions of a permit issued under §922.166. For the Thunder Bay National Marine Sanctuary and Underwater Preserve, a person may conduct an activity prohibited by Subpart R in accordance with the scope, purpose, terms and conditions of a permit issued under §922.195.

(b) Applications for permits to conduct activities otherwise prohibited by Subparts F through O should be addressed to the Director and sent to the address specified in Subparts F through O, or Subpart R, as appropriate. An application must include:

- (1) A detailed description of the proposed activity including a timetable for completion;
- (2) The equipment, personnel and methodology to be employed;
- (3) The qualifications and experience of all personnel;
- (4) The potential effects of the activity, if any, on Sanctuary resources and qualities; and
- (5) Copies of all other required licenses, permits, approvals or other authorizations.

(c) Upon receipt of an application, the Director may request such additional information from the applicant as he or she deems necessary to act on the application and may seek the views of any persons or entity, within or outside the Federal government, and may hold a public hearing, as deemed appropriate.

(d) The Director, at his or her discretion, may issue a permit, subject to such terms and conditions as he or she deems appropriate, to conduct a prohibited activity, in accordance with the criteria found in Subparts F through O, or Subpart R, as appropriate. The

Director shall further impose, at a minimum, the conditions set forth in the relevant subpart.

(e) A permit granted pursuant to this section is nontransferable.

(f) The Director may amend, suspend, or revoke a permit issued pursuant to this section for good cause. The Director may deny a permit application pursuant to this section, in whole or in part, if it is determined that the permittee or applicant has acted in violation of the terms and conditions of a permit or of the regulations set forth in this section or Subparts F through O, Subpart R or for other good cause. Any such action shall be communicated in writing to the permittee or applicant by certified mail and shall set forth the reason(s) for the action taken. Procedures governing permit sanctions and denials for enforcement reasons are set forth in subpart D of 15 CFR part 904.

§922.49 Notification and review of applications for leases, licenses, permits, approvals or other authorizations to conduct a prohibited activity.

(a) A person may conduct an activity prohibited by Subparts L through P, or Subpart R, if such activity is specifically authorized by any valid Federal, State, or local lease, permit, license, approval, or other authorization issued after the effective date of Sanctuary designation, or in the case of the Florida Keys National Marine Sanctuary after the effective date of the regulations in Subpart P provided that:

(1) The applicant notifies the Director, in writing, of the application for such authorization (and of any application for an amendment, renewal, or extension of such authorization) within fifteen (15) days of the date of filing of the application or the effective date of Sanctuary designation, or in the case of the Florida Keys National Marine Sanctuary the effective date of the regulations in Subpart P of this part, whichever is later;

(2) The applicant complies with the other provisions of this §922.49;

(3) The Director notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization (or amendment, renewal or extension); and (4) The applicant complies with any terms and conditions the Director deems reasonably necessary to protect Sanctuary resources and qualities.

(b) Any potential applicant for an authorization described in Paragraph (a) of this section may request the Director to issue a finding as to whether the activity for which an application is intended to be made is prohibited by Subparts L through P, or Subpart R, as appropriate.

(c) Notification of filings of applications should be sent to the Director, Office of Ocean and Coastal Resource Management at the address specified in Subparts L through P, or Subpart R as appropriate. A copy of the application must accompany the notification.

(d) The Director may request additional information from the applicant as he or she deems reasonably necessary to determine whether to object to issuance of an authorization described in Paragraph (a) of this section, or what terms and conditions are reasonably necessary to protect Sanctuary resources and qualities. The information requested must be received by the Director within 45 days of the postmark date of the request. The Director may seek the views of any persons on the application.

(e) The Director shall notify, in writing, the agency to which

application has been made of his or her pending review of the application and possible objection to issuance. Upon completion of review of the application and information received with respect thereto, the Director shall notify both the agency and applicant, in writing, whether he or she has an objection to issuance and what terms and conditions he or she deems reasonably necessary to protect Sanctuary resources and qualities, and reasons therefor.

(f) The director may amend the terms and conditions deemed reasonably necessary to protect Sanctuary resources and qualities whenever additional information becomes available justifying such an amendment.

(g) Any time limit prescribed in or established under this §922.49 may be extended by the Director for good cause.

(h) The applicant may appeal any objection by or terms or conditions imposed by the Director, to the Assistant Administrator in accordance with the procedures set forth in §922.50.

§922.50 Appeals of administrative action.

(a)(1) Except for permit actions taken for enforcement reasons (see subpart D of 15 CFR part 904 for applicable procedures), an applicant for, or a holder of, a National Marine Sanctuary permit; an applicant for, or a holder of, a Special Use permit pursuant to section 310 of the Act; a person requesting certification of an existing lease, permit, license or right of subsistence use or access under §922.47; or, for those Sanctuaries described in Subparts L through P and Subpart R, an applicant for a lease, permit, license or other authorization issued by any Federal, State, or local authority of competent jurisdiction (hereinafter appellant) may appeal to the Assistant Administrator:

(i) The granting, denial, conditioning, amendment, suspension or revocation by the Director of a National Marine Sanctuary or Special Use permit;

(ii) The conditioning, amendment, suspension or revocation of a certification under §922.47; or

(iii) For those Sanctuaries described in Subparts L through P and Subpart R, the objection to issuance of the imposition of terms and conditions on a lease, permit, license or other authorization issued by any Federal, State, or local authority of competent jurisdiction.

(2) For those National Marine Sanctuaries described in subparts F through K, any interested person may also appeal the same actions described in §922.50(a)(1)(i) and (ii). For appeals arising from actions taken with respect to these National Marine Sanctuaries, the term “appellant” includes any such interested persons.

(b) An appeal under Paragraph (a) of this section must be in writing, state the action(s) by the Director appealed and the reason(s) for the appeal, and be received within 30 days of receipt of notice of the action by the Director. Appeals should be addressed to the Assistant Administrator for Ocean Services and Coastal Zone Management, NOAA 1305 East-West Highway, 13th Floor, Silver Spring, MD 20910.

(c)(1) The Assistant Administrator may request the appellant to submit such information as the Assistant Administrator deems necessary in order for him or her to decide the appeal. The information requested must be received by the Assistant Administrator within 45 days of the postmark date of the request. The Assistant Administrator may seek the views of any other persons. For the Monitor National Marine Sanctuary, if the appellant has request a hearing, the Assistant Administrator shall grant an informal hearing. For all other National Marine Sanctuaries, the Assistant Administrator may determine whether to hold an informal hearing on the appeal. If the Assistant Administrator determines that an informal hearing should be held,

the Assistant Administrator may designate an officer before whom the hearing shall be held.

(2) The hearing officer shall give notice in the **Federal Register** of the time, place and subject matter of the hearing. The appellant and the Director may appear personally or by counsel at that hearing and submit such material and present such arguments as deemed appropriate by the hearing officer. Within 60 days after the record for the hearing closes, the hearing officer shall recommend a decision in writing to the Assistant Administrator.

(d) The Assistant Administrator shall decide the appeal using the same regulatory criteria as for the initial decision and shall base the appeal decision on the record before the Director and any information submitted regarding the appeal, and, if a hearing has been held, on the record before the hearing officer and the hearing officer’s recommended decision. The Assistant Administrator shall notify the appellant of the final decision and the reason(s) therefore in writing. The Assistant Administrator’s decision shall constitute final agency action for the purpose of the Administrative Procedure Act.

(e) Any time limit prescribed in or established under this section other than the 30-day limit for filing an appeal may be extended by the Assistant Administrator or hearing office for good cause.

Subpart R—Thunder Bay National Marine Sanctuary and Underwater Preserve

§922.190 Boundary.

The Thunder Bay National Marine Sanctuary and Underwater Preserve (Sanctuary) consists of an area of approximately 448 square miles (1169 square kilometers) of waters of Lake Huron and the submerged lands thereunder, over, around, and under the underwater cultural resources in Thunder Bay. The boundary forms an approximately rectangular area by extending along the ordinary high water mark between the northern and southern boundaries of Alpena County, cutting across the mouths of rivers and streams, and lakeward from those points along latitude lines to longitude 83 degrees west. The coordinates of the boundary are set forth in Appendix A to this Subpart.

§922.191 Definitions.

(a) The following terms are defined for purposes of Subpart R: *Minor project* means any project listed in Appendix B to this Subpart.

Programmatic Agreement means the agreement among NOAA, the Federal Advisory Council on Historic Preservation, and the State of Michigan, developed pursuant to the National Marine Sanctuaries Act (NMSA), 16 U.S.C. 1431 *et seq.* and section 106 of the National Historic Preservation Act of 1966 as amended, 16 U.S.C. 470 *et seq.*, which, in part, sets forth the procedures for review and approval of State Permits that authorize activities prohibited by the Sanctuary regulations.

State Archaeologist means the State Archaeologist, Michigan Historical Center, Michigan Department of State.

State Permit means any lease, permit, license, approval, or other authorization issued by the State of Michigan for the conduct of activities or projects within the Thunder Bay National

Marine Sanctuary and Underwater Preserve that are prohibited by the regulations at § 922.193.

Traditional fishing means those commercial, recreational, and subsistence fishing activities that were customarily conducted within the Sanctuary prior to its designation, as identified in the Final Environmental Impact Statement and Management Plan for this Sanctuary. Copies of the Final Environmental Impact Statement/Management Plan (FEIS/MP) are available upon request to the Marine Sanctuaries Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 305 East-West Highway, 11th Floor, Silver Spring, MD 20910, (301) 713-3125. Traditional fishing includes tribal fishing rights as provided for in the 1836 Treaty of Washington and subsequent court decisions related to the Treaty.

Underwater cultural resource means:

(1) Any sunken watercraft, including a ship, boat, canoe, skiff, raft, or barge; the rigging, gear, fittings, trappings, and equipment of any sunken watercraft; the personal property of the officers, crew, and passengers of any sunken watercraft; and the cargo of any sunken watercraft, that sank prior to the effective date of Sanctuary designation; and

(2) Any of the above that sinks on or after the date of Sanctuary designation determined to be an underwater cultural resource by the Director pursuant to § 922.198. Underwater cultural resource also means any historical remnant of docks or piers or associated material, or materials resulting from activities of historic and prehistoric Native Americans.

(b) Other terms appearing in the regulations are defined at 15 CFR part 922 subpart A, and/or in the National Marine Sanctuaries Act, as amended, 16 U.S.C. 1431 *et seq.*

§922.192 Joint Management Committee.

(a) A state/federal Joint Management Committee shall be established to oversee and engage in decision-making authority for the Thunder Bay National Marine Sanctuary and Underwater Preserve.

(b) The Joint Management Committee shall be comprised of one Federal employee named by the NOAA Administrator and one state employee named by the Governor of Michigan. The Federal employee cannot be the sanctuary manager (the individual who exercises day-to-day management over the Sanctuary) and must have a civil service grade higher than that of the sanctuary manager.

(c) The Joint Management Committee shall:

(1) Develop a position description for, recruit prospective candidates for the position of, interview candidates for the position of, and take part in the annual performance evaluation of, the sanctuary manager;

(2) Approve revisions to the Management Plan;

(3) Approve annual work plans;

(4) Approve, on an annual basis, the expenditure of allocated state and federal funds and other sources of revenue for the Thunder Bay National Marine Sanctuary and Underwater Preserve, in accordance with the Management Plan and the annual work plans; and

(5) Make decisions on other key issues related to management of the Thunder Bay National Marine Sanctuary and Underwater Preserve.

(d) The Joint Management Committee shall meet as agreed to by the members but not less than once annually.

(e) If the Joint Management Committee is unable to reach agreement on an issue, the members shall follow the "Consultation and Conflict Resolution" procedures set forth in the Interlocal Agreement between NOAA and the State of Michigan.

(f) The Joint Management Committee may invite affected public parties to participate in selected aspects of Sanctuary management as:

(1) Parties to the Interlocal Agreement pursuant to the Michigan Urban Cooperation Act of 1967, MCL 124.501 *et seq.*; and/or

(2) Pursuant to the NMSA.

§922.193 Prohibited or otherwise regulated activities.

(a) Except as specified in paragraphs (b) through (d) of this section, the following activities are prohibited and thus are unlawful for any person to conduct or to cause to be conducted:

(1) Recovering, altering, destroying, possessing, or attempting to recover, alter, destroy, or possess an underwater cultural resource.

(2) Drilling into, dredging or otherwise altering the lake bottom associated with underwater cultural resources, including contextual information; or constructing, placing or abandoning any structure, material or other matter on the lakebottom associated with underwater cultural resources, except as an incidental result of:

(i) Anchoring vessels;

(ii) Traditional fishing operations; or

(iii) Minor projects (as defined in Appendix B of this subpart) that do not adversely affect underwater cultural resources.

(3) Using grappling hooks or other anchoring devices on underwater cultural resource sites that are marked with a mooring buoy.

(4) Interfering with, obstructing, delaying or preventing an investigation, search, seizure or disposition of seized property in connection with enforcement of the Act or any regulations issued under the Act.

(b) Members of a federally-recognized Indian tribe may exercise treaty-secured rights, subject to the requirements of other applicable law, without regard to the requirements of this subpart. The Director may consult with the governing body of a tribe regarding ways the tribe may exercise such rights consistent with the purposes of the Sanctuary, provided that the rights are authorized by the tribe by regulation, license, or permit.

(c) The prohibitions in paragraphs (a)(1) through (3) of this section do not apply to valid law enforcement activities, or any activity necessary to respond to an emergency threatening life or the environment.

(d) The prohibitions in paragraphs (a) (1) through (3) of this section do not apply to any activity:

(1) Specifically authorized by, and conducted in accordance with the scope, purpose, terms and conditions of, a permit issued pursuant to § 922.195 or a Special Use Permit issued pursuant to section 310 of the NMSA.

(2) Specifically authorized by any valid Federal, State, or local lease, permit, license, approval, or other authorization in existence on the effective date of these regulations, or by any valid right of

subsistence use or access in existence on the effective date of these regulations, provided that the holder of such authorization or right complies with § 922.194 and § 922.47 and with any terms and conditions for the exercise of such authorization or right imposed by the Director as a condition of certification as he or she deems reasonably necessary to achieve the purposes for which the Sanctuary was designated.

§922.194 Certification of preexisting leases, licenses, permits, approvals, other authorizations, or rights to conduct a prohibited activity.

(a) A person may conduct an activity prohibited by § 922.193 (a)(1) through (3) if such activity is specifically authorized by a valid Federal, State, or local lease, permit, license, approval, or other authorization in existence on the effective date of Sanctuary designation, or by any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, *provided that*:

(1) For any State or local lease, permit, license, approval, or other authorization, or any right of subsistence use, the State Archaeologist certifies to the Director, within 90 days of the effective date of designation, that the activity authorized under the State or local lease, permit, license, approval, or other authorization, or any right of subsistence use, is being conducted consistent with the Programmatic Agreement, in which case such activity shall be deemed to have met the requirements of this section and § 922.47; or

(2) In the case where either:

(i) The State Archaeologist does not certify that the activity authorized under a State or local lease, permit, license, approval, or other authorization, or right of subsistence use is being conducted consistent with the Programmatic Agreement; or

(ii) The activity is conducted pursuant only to a Federal permit, the holder of the authorization or right complies with paragraphs (b) through (k) of this section.

(b) For an activity described in paragraph (a)(2) of this section, the holder of the authorization or right may conduct the activity prohibited by § 922.193 (a)(1) through (3) *provided that*:

(1) The holder of such authorization or right notifies the Director, in writing, within 90 days of the effective date of Sanctuary designation, of the existence of such authorization or right and

requests certification of such authorization or right;

(2) The holder complies with the other provisions of § 922.194; and

(3) The holder complies with any terms and conditions on the exercise of such authorization or right imposed as a condition of certification, by the Director, to achieve the purposes for which the Sanctuary was designated.

(c) The holder of an authorization or right described in paragraph (a)(2) of this section authorizing an activity prohibited by § 922.193 may conduct the activity without being in violation of applicable provisions of § 922.193, pending final agency action on his or her certification request, provided the holder is in compliance with this § 922.194.

(d) Any holder of an authorization or right described in paragraph (a)(2) of this section may request the Director to issue a finding as to whether the activity for which the authorization has been issued, or the right given, is prohibited by § 922.193, thus requiring certification under this section.

(e) Requests for findings or certifications should be addressed to the Director, Office of Ocean and Coastal Resource Management; ATTN: Sanctuary Manager, Thunder Bay National Marine Sanctuary and Underwater Preserve, 1305 East-West Highway, N/ORM, Silver Spring, Maryland, 20910. A copy of the lease, permit, license, approval, or other authorization must accompany the request.

(f) The Director may request additional information from the certification requester as he or she deems reasonably necessary to condition appropriately the exercise of the certified authorization or right to achieve the purposes for which the Sanctuary was designated. The Director must receive the information requested within 45 days of the postmark date of the request. The Director may seek the views of any persons on the certification request.

(g) The Director may amend any certification made under this § 922.194 whenever additional information becomes available justifying such an amendment.

(h) Upon completion of review of the authorization or right and information received with respect thereto, the Director shall communicate, in writing, any decision on a certification request or any action taken with respect to any certification made under this § 922.194, in writing, to both the holder of the certified lease, permit, license, approval, other authorization, or right, and the issuing agency, and shall set forth the reason(s) for the decision or action taken.

(i) Any time limit prescribed in or established under this § 922.194 may be extended by the Director for good cause.

(j) The holder may appeal any action conditioning, amending, suspending, or revoking any certification in accordance with the procedures set forth in § 922.50.

(k) Any amendment, renewal, or extension made after the effective date of Sanctuary designation, to a lease, permit, license, approval, other authorization or right is subject to the provisions of § 922.195 and § 922.49.

(l) For any activity authorized pursuant to § 922.193 (b), the holder of such license or permit shall notify the Director, in writing, within 90 days of the effective date of Sanctuary designation, of the existence of such authorization or right.

922.195 Permit procedures and criteria.

(a) A person may conduct an activity prohibited by § 922.193 (a)(1) through (3), if conducted in accordance with the scope, purpose, terms and conditions of a State Permit *provided that*:

(1) The State Archaeologist certifies to NOAA that the activity authorized under the State Permit will be conducted consistent with the Programmatic Agreement, in which case such State Permit shall be deemed to have met the requirements of § 922.49; or

(2) In the case where the State Archaeologist does not certify that the activity to be authorized under a State Permit will be conducted consistent with the Programmatic Agreement, the person complies with the requirements of § 922.49 of this part.

(b) If no State Permit is required to conduct an activity prohibited by § 922.193 (a)(1) through (3) of this subpart, a person may conduct such activity if it is conducted in accordance with the scope, purpose, terms and conditions of a Federal permit, provided that the person complies with the provisions of § 922.49 of this part.

(c) In instances where the conduct of an activity is prohibited by § 922.193 (a)(1) through (3) of this subpart is not addressed under a State or other Federal lease, license, permit or other authorization, a person must obtain a Sanctuary permit from NOAA pursuant to § 922.48 (c) through (f) of this part and the Programmatic Agreement in order to conduct the activity.

(d) A permit for recovery of an underwater cultural resource may be issued if:

(1) The proposed activity satisfies the requirements for permits described under paragraphs (a) through (c) of this section;

(2) The recovery of the underwater cultural resource is in the public interest;

(3) Recovery of the underwater cultural resource is part of research to preserve historic information for public use; and

(4) Recovery of the underwater cultural resource is necessary or appropriate to protect the resource, preserve historical information, or further the policies of the Sanctuary.

(e) A person shall file an application for a permit with the Michigan Department of Environmental Quality, Land and Water Management Division, P.O. Box 30458, Lansing, MI, 48909-7958. The application shall contain all of the following information:

(1) The name and address of the applicant;

(2) Research plan that describes in detail the specific research objectives and previous work done at the site. An archaeological survey must be conducted on a site before an archaeological permit allowing excavation can be issued;

(3) Description of significant previous work in the area of interest, how the proposed effort would enhance or contribute to improving the state of knowledge, why the proposed effort should be performed in the Sanctuary, and its potential benefits to the Sanctuary;

(4) An operational plan that describes the tasks required to accomplish the project's objectives and the professional qualifications of those conducting and supervising those tasks (see § 922.195(e)(9) of this section. The plan must provide adequate description of methods to be used for excavation, recovery and the storage of artifacts and related materials on site, and describe the rationale for selecting the proposed methods over any alternative methods;

(5) Archaeological recording, including site maps, feature maps, scaled photographs, and field notes;

(6) An excavation plan describing the excavation, recovery and handling of artifacts;

(7)(i) A conservation plan documenting:

(A) The conservation facility's equipment;

(B) Ventilation temperature and humidity control; and

(C) storage space.

(ii) Documentation of intended conservation methods and processes must also be included;

(8) A curation and display plan for the curation of the conserved artifacts to ensure the maintenance and safety of the artifacts in keeping with the Sanctuary's federal stewardship responsibilities under the Federal Archaeology Program (36 CFR Part 79, Curation of Federally-

Owned and Administered Archaeological Collections); and (9) Documentation of the professional standards of an archaeologist supervising the archaeological recovery of historical artifacts. The minimum professional qualifications in archaeology are a graduate degree in archaeology, anthropology, or closely related field plus:

(i) At least one year of full-time professional experience or equivalent specialized training in archeological research, administration or management;

(ii) At least four months of supervised field and analytic experience in general North American archaeology;

(iii) Demonstrated ability to carry research to completion; and

(iv) At least one year of full-time professional experience at a supervisory level in the study of archeological resources in the underwater environment.

§922.196 Emergency regulations.

(a) Where necessary to prevent or minimize the destruction of, loss of, or injury to an underwater cultural resource, or to minimize the imminent risk of such destruction, loss, or injury, any and all activities are subject to immediate temporary regulation, including prohibition. An emergency regulation shall not take effect without the approval of the Governor of Michigan.

(b) Emergency regulations remain in effect until a date fixed in the rule or six months after the effective date, whichever is earlier. The rule may be extended once for not more than six months.

922.197 Consultation with affected federally-recognized Indian tribes.

The Director shall regularly consult with the governing bodies of affected federally-recognized Indian tribes regarding areas of mutual concern.

§922.198 Procedures for determining watercraft and related items which sink on or after the date of Sanctuary designation to be an underwater cultural resource.

The Director, in consultation with the State of Michigan, appropriate federal agencies, and the governing body of any affected federally-recognized tribe, may determine, after providing 45 days for public comment, that any sunken watercraft, including a ship, boat, canoe, skiff, raft, or barge; the rigging, gear, fittings, trappings, and equipment of any sunken watercraft; the personal property of the officers, crew, and passengers of any sunken watercraft; and the cargo of any sunken watercraft, that sinks on or after the date of Sanctuary designation, to be an underwater cultural resource if such is determined by the Director to be 50 years or older and of special national significance due to architectural significance or association with individuals or events that are significant to local or national history.

Appendix A to Subpart R of Part 922—Thunder Bay National Marine Sanctuary and Underwater Preserve Boundary Coordinates

Point	Latitude	Longitude
1	45°12'25.5"	83°23'18.6"
2	45°12'25.5"	83°00'00"
3	44°51'30.5"	83°00'00"
4	44°51'30.5"	83°19'17.3"

Appendix B to Subpart R of Part 922—Minor Projects for Purposes of § 922.193(a)(2)(iii)

Pursuant to Michigan State Administrative Rule R 322.1013 of Part 325, Great Lakes Submerged Lands of Public Act 451 (Michigan State Statute), the Michigan Department of Environmental Quality (Department) issues permits for projects that are of a minor nature which are not controversial, which have minimal adverse environmental impact, which will be constructed of clean, non-polluting materials, which do not impair the use of the adjacent bottomlands by the public, and which do not adversely affect riparian interests of adjacent owners. The following projects are minor projects:

(a) Noncommercial single piers, docks, and boat hoists which meet the following design criteria:

(i) are of a length or size not greater than the length or size of similar structures in the vicinity and on the watercourse involved; and

(ii) provide for the free littoral flow of water and drift material.

(b) Spring piles and pile clusters when their design and purpose is usual for such projects in the vicinity and on the watercourse involved.

(c) Seawalls, bulkheads, and other permanent revetment structures which meet all of the following purpose and design criteria:

(i) the proposed structure fulfills an identifiable need for erosion protection, bank stabilization, protection of uplands, or improvements on uplands;

(ii) the structure will be constructed of suitable materials free from pollutants, waste metal products, debris, or organic materials;

(iii) the structure is not more than 300 feet in length and is located in an area on the body of water where other similar structures already exist;

(iv) the placement of backfill or other fill associated with the construction does not exceed an average of 3 cubic yards per running foot along the shoreline and a maximum of 300 cubic yards; and

(v) the structure or any associated fill will not be placed in a wetland area or placed in any manner that impairs surface water flow into or out of any wetland area.

(d) Groins 50 feet or less in length, as measures from the toe to bluff, which meet all of the following criteria:

(i) the groin is low profile, with the lakeward end not more than 1 foot above the existing water level; and

(ii) the groin is placed at least $\frac{1}{2}$ of the groin length from the adjacent property line or closer with written approval of the adjacent riparian.

(e) Filling for restoration of existing permitted fill, fills placed incidental to construction of other structures, and fills that do not exceed 300 cubic yards as a single and complete project, where the fill

is of suitable material free from pollutants, waste metal products, debris, or organic materials.

(f) Dredging for the maintenance of previously dredged areas or dredging of not more than 300 cubic yards as a single and complete project when both of the following criteria are met:

(i) No reasonable expectation exists that the materials to be dredged are polluted; and

(ii) All dredging materials will be removed to an upland site exclusive of wetland areas.

(g) Structural repair of man-made structures, except as exempted by Michigan State Administrative Rule R 322.1008(3), when their design and purpose meet both of the following criteria:

(i) The repair does not alter the original use of a recently serviceable structure; and

(ii) The repair will not adversely affect public trust values or interests, including navigation and water quality.

(h) Fish or wildlife habitat structures which meet both of the following criteria:

(i) Are placed so the structures do not impede or create a navigational hazard; and

(ii) Are anchored to the bottomlands.

(i) Scientific structures such as staff gauges, water monitoring devices, water quality testing devices, survey devices, and core sampling devices, if the structures do not impede or create a navigational hazard.

(j) Navigational aids which meet both of the following criteria:

(i) Are approved by the United States Coast Guard; and

(ii) Are approved under Michigan State Act No. 303 of the Public Acts of 1967, as amended, being Section 281.1001 *et seq.* of the Michigan Compiled Laws, and known as the Marine Safety Act.

(k) Extension of a project where work is being performed under a current permit and which will result in no damage to natural resources.

(l) A sand trap wall which meets all of the following criteria:

(i) The wall is 300 feet or less in length along the shoreline;

(ii) The wall does not extend more than 30 feet lakeward of the toe of bluff;

(iii) The wall is low profile, that is, it is not more than 1 foot above the existing water level; and

(iv) The wall is constructed of wood or steel or other non-polluting material.

(m) Physical removal of man-made structures or natural obstructions which meet all of the following criteria:

(i) The debris and spoils shall be removed to an upland site, not in a wetland, in a manner which will not allow erosion into public waters;

(ii) The shoreline and bottom contours shall be restored to an acceptable condition; and

(iii) Upon completion of structure removal, the site does not constitute a safety or navigational hazard. Department staff shall consider fisheries and wildlife resource values when evaluating applications for natural obstruction removal.

(15 CFR 922)

Publication—National Ocean Service—U.S. Coast Pilot 6, and their connecting waterways, 2003 (33rd) Edition. Change No. 10.

Coast Pilot 6 33rd Ed 2003

Corrections

Page 87-Paragraph 968 through Paragraph 978, line 1; read:
Subpart C—Vessel Traffic Service and Vessel Movement Reporting System Areas and Reporting Points

Note: All geographic coordinates contained in part ...

(FR 7/1/03)

Page 94-Paragraph 1145, line 3; read:
more gross tons (except as provided in paragraphs (c) and (d) of ...
(FR 7/1/03)

Page 94-Paragraph 1151, lines 1-2; read:
(c) Provisions of §§164.11(a)(2) and (c), 164.30, 164.33, and
164.46 do not apply to warships or other vessels ...
(FR 7/1/03)

Page 94-Paragraph 1151, line 7; read:
regulations regarding navigation safety.
(d) Provisions of §164.46 apply to some self-propelled vessels of
less 1600 gross tonnage.
(FR 7/1/03)

Page 94-Paragraph 1152, line 1; read:
(a) Except as provided in §164.46(a)(2) of this part (including
§§164.38 and 164.39) does ...
(FR 7/1/03)

Page 94-Paragraph 1164, line 3; read:
.....164.74

International Electrotechnical Commission (IEC)
3, rue de Varemb, Geneva, Switzerland.
IEC 61993-2, Maritime navigation and radiocommunication
equipment and systems—
Automatic identification systems (AIS)—part 2: Class A shipborne
equipment of the universal automatic identification system (AIS)—
Operational and performance requirements, methods of test and
required test results First edition, 2001-12
164.46
(FR 7/1/03)

Page 94-Paragraph 1165, line 5; read:
1975164.13
Resolution MSC.74(69), Annex 3, Recommendation on
Performance Standards for a Universal Shipborne Automatic
Identification System (AIS), adopted May 12, 1998
.....164.46
SN/Circ.277, Guidelines for the Installation of a Shipborne
Automatic Identification System (AIS), dated January 6, 2003
....164.46
SOLAS, International Convention for Safety of Life at Sea,
1974, and 1988 Protocol relating thereto, 2000 Amendments,
effective January and July 2002, (SOLAS 2000 Amendments)
.....164.46
Conference resolution 1, Adoption of amendments to the Annex
to the International Convention for the Safety of Life at Sea, 1974,
and amendments to Chapter V of SOLAS 1974, adopted December
12, 2002 164.46
(FR 7/1/03)

Page 94-Paragraph 1168, line 4; read:
Services and Ship-to-Ship Identification, 1992
.....164.43
ITU-R Recommendation M.1371-1, Technical characteristics for
a universal shipborne automatic identification system using time
division multiple access in the VHF maritime mobile band, 1998-
2001164.46
(FR 7/1/03)

Page 100-Paragraph 1338, line 3 through Paragraph 1339, line 2;
read:
with a rate of turn indicator.
**§164.43 Automatic Identification System Shipborne
Equipment –Prince William Sound.**
(a) Until July 1, 2004, each vessel required to provide
automated position reports to a Vessel Traffic Service (VTS)
under §165.1704 of this subchapter must do so ...
(FR 7/1/03)

Page 100-Paragraph 1357, line 2; read:
operating procedures are set forth in Part 161 of this chapter.
§164.46 Automatic Identification System (AIS).
(a) The following vessels must have an installed, operational
AIS that complies with the IMO Resolution MSC.74(69), ITU-R
Recommendation M.1371-1, and IEC 61993-2, and that is
installed using IMO SN/Circ.277 (Incorporated by reference, see
§164.03) as of the date specified. “Length” refers to “registered
length” as defined in 46 CFR, part 69.
(1) Self-propelled vessels of 65 feet or more in length engaged
in commercial service and on an international voyage, not later
than December 31, 2004.
(2) Notwithstanding paragraph (a)(1) of this section, the
following vessels subject to the International Convention for
Safety at Life at Sea, 1974, (SOLAS) as amended, that are on an
international voyage must also comply with SOLAS, chapter V,
as amended by SOLAS 2000 Amendments and Conference
resolution 1 (Incorporated by reference, see §164.03):
(i) Passenger vessels, of 150 gross tonnage or more, not later
than July 1, 2003;
(ii) Tankers, regardless of tonnage, not later than the first
safety survey for safety equipment on or after July 1, 2003;
(iii) Vessels, other than passenger vessels or tankers, of 50,000
gross tonnage or more, not later than July 1, 2004; and
(iv) Vessels, other than passenger vessels or tankers, of 300
gross tonnage or more but less than 50,000 gross tonnage, not
later than the first safety survey for safety equipment on or after
July 1, 2004, but no later than December 31, 2004.
(b) Notwithstanding paragraphs (a)(1) and (a)(2) of this
section, the following vessels, transiting an area listed in table
161.12(c) of §161.12 of this part.
(1) Each self-propelled vessel of 65 feet or more in length,
engaged in commercial service;
(2) Each towing vessel of 26 feet or more in length and more
than 600 horsepower;
(3) Each vessel of 100 gross tons or more carrying one or more
passengers for hire; and
(4) Each passenger vessel certificated to carry 50 or more
passengers for hire.
(c) The vessels listed in paragraph (b) of this section must
comply according to the following schedule:
(1) For VTS St. Marys River, not later than December 31,
2003;
(2) For VTS Berwick Bay, VMRS Los Angeles/Long Beach,
VTS Lower Mississippi River, VTS Port Arthur and VTS Prince
William Sound, not later than July 1, 2004; and
(3) For VTS Houston-Galveston, VTS New York, VTS Puget
Sound, and VTS San Francisco, not later than December 31,
2004.
(d) The requirements for Vessel Bridge-to-Bridge
radiotelephones in §§26.04(a) and (c), 26.05, 26.06 and 26.07 of
this chapter, also apply to AIS. The term “effective operating
condition” used in §26.06 includes accurate input and upkeep of

all AIS data fields, including estimated time of arrival, destination, and number of people on board.

(e) The use of a portable AIS is permissible, only to the extent that electromagnetic interference does not affect the proper function of existing navigation and communication equipment on board, and such that only one AIS unit may be in operation at any one time.

(f) The AIS Pilot Plug, on each vessel over 1,600 gross tons, on international voyage, shall be available for pilot use, easily accessible from the primary conning position of the vessel, and near an AC power receptacle.

(FR 7/1/03)

Publication—National Ocean Service—U.S. Coast Pilot 6, and their connecting waterways, 2003 (33rd) Edition.
Change No. 11.

Coast Pilot 6 33rd Ed 2003

Corrections

Page 83 through Page 84, read:

TABLE 161.12(C).—VTS and VMRS Centers, Call Signs/MMSI, Designated Frequencies, and Monitoring Areas		
Center MMSI ¹ Call Sign	Designated frequency (Channel designation)—purpose ²	Monitoring area ^{3 4}
Berwick Bay—003669950 Berwick Traffic	156.550 MHz (Ch. 11)	The waters south of 29°45'N., west of 91°10'W., north of 29°37'N., and east of 91°18'W.
Houston-Galveston— 003669954	The navigable waters north of 29°N., west of 94°20'W., south of 29°49'N., and east of 95°20'W.
<i>Houston Traffic</i>	156.550 MHz (Ch. 11) 156.250 MHz (Ch. 5A) —For Sailing Plans only	The navigable waters north of a line extending due west from the southern most end of Exxon Dock #1 (20°43.37'N., 95°01.27'W.)
<i>Houston Traffic</i>	156.600 MHz (Ch. 12) 156.250 MHz (Ch. 5A) —For Sailing Plans only	The navigable waters south of a line extending due west from the southern most end of Exxon Dock #1 (20°43.37'N., 95°01.27'W.)
Los Angeles/Long Beach: MMSI/To be determined <i>San Pedro Traffic</i>	156.700 MHz (Ch. 14)	<i>Vessel Movement Reporting System Area:</i> The navigable waters within a 25 nautical mile radius of Point Fermin Light (33°42.3'N., 118°17.6'W.)
Louisville: Not applicable <i>Louisville Traffic</i>	156.650 MHz (Ch. 13)	The waters of the Ohio River between McAlpine Locks (Mile 606) and Twelve Mile Island (Mile 593), only when the McAlpine upper pool gauge is at approximately 13.0 feet or above.
Lower Mississippi River ⁵ — 0036699952		
<i>New Orleans Traffic</i>	156.700 MHz (Ch. 14)	The navigable waters of the Lower Mississippi River below 30°38.7'N., 91°17.5'W. (Port Hudson Light at 255 miles Above Head of Passes (AHP)), the Southwest Pass, and, within a 12 nautical miles radius around 28°54.3'N., 89°25.7'W. (Southwest Pass Entrance Light at 19.9 miles Below Head of Passes).
<i>New Orleans Traffic</i>	156.600 MHz (Ch. 12)	<i>New Orleans Sector.</i> The navigable waters of the Lower Mississippi River bounded on the north by a line drawn perpendicular at 29°56.4'N., 90°08.36'W. and on the south by a line drawn perpendicularly at 29°56.24'N., 89°59.86'W. (88 and 106 miles AHP).

New York—003669951 <i>New York Traffic</i>	156.550 MHz (Ch.11) —For Sailing Plans Only 156.600 MHz (Ch. 12) —For vessels at anchor	The area consists of the navigable waters of the Lower New York Bay bounded on the east by a line drawn from Norton Point to Breezy Point; on the south by a line connecting the entrance buoys at the Ambrose Channel, Swash Channel, and Sandy Hook Channel to Sandy Hook Point; and on the southeast including the waters of Sandy Hook Bay south to a line drawn at latitude 40°25'N.; then west in the Raritan Bay to the Raritan River Railroad Bridge, then north into waters of the Arthur Kill and Newark Bay to the Lehigh Valley Draw Bridge at latitude 40°41.9'N.; and then east including the waters of the Kill Van Kull and the Upper New York Bay north to a line drawn east-west from the Holland Tunnel ventilator shaft at latitude 40°43.7'N., longitude 74°01.6'W., in the Hudson River; and then continuing east including the waters of the East River to the Throgs Neck Bridge, excluding the Harlem River.
<i>New York Traffic</i>	156.700 MHz (Ch. 14)	The navigable waters of the Lower New York Bay west of a line drawn from Norton Point to Breezy Point; and north of a line connecting the entrance buoys of Ambrose Channel, Swash Channel, and Sandy Hook Channel, to Sandy Hook Point; on the southeast including the waters of the Sandy Hook Bay south to a line drawn at latitude 40°25'N.; then west into the waters of Raritan Bay East Reach to a line drawn from Great Kills Light south through Raritan Bay East Reach LGB #14 to Comfort PT, NJ; then north including the waters of the Upper New York Bay south of 40°42.40'N. (Brooklyn Bridge) and 40°43.70'N. (Holland Tunnel Ventilator Shaft); west through the KVK into the Arthur Kill north of 40°38.25'N. (Arthur Kill Railroad Bridge); then north into the waters of the Newark Bay, south of 40°41.95'N. (Lehigh Valley Draw Bridge).
<i>New York Traffic</i>	156.600 MHz (Ch. 12)	The navigable waters of the Raritan Bay south to a line drawn at latitude 40°26'N.; then west of a line drawn from Great Kills Light south through the Raritan Bay East Reach LGB #14 to Point Comfort, NJ; then west to the Raritan River Railroad Bridge; and north including the waters of the Arthur Kill to 40°28.25'N. (Arthur Kill Railroad Bridge); including the waters of the East River north of 40°42.40'N. (Brooklyn Bridge) to the Throgs Neck Bridge, excluding the Harlem River.
Port Arthur ⁵ —003669955 <i>Sabine Traffic</i>	To be determined	The navigable waters south of 30°10'N., east of 94°20'W., west of 93°22'W. and, north of 29°10'N.
Prince William Sound—003669958 <i>Valdez Traffic</i>	156.650 MHz (Ch. 13)	The navigable waters south of 61°05'N., east of 147°20'W., north of 60°N., and west of 146°30'W.; and, all navigable waters in Port Valdez.
Puget Sound ⁶ <i>Seattle Traffic</i> —003669957	156.700 MHz (Ch. 14)	The waters of Puget Sound, Hood Canal and adjacent waters south of a line connecting Marrowstone Point and Lagoon Point in Admiralty Inlet and south of a line drawn due east from the southernmost tip of Possession Point on Whidbey Island to the shoreline.
<i>Seattle Traffic</i> —003669957	156.250 MHz (Ch. 5A)	The waters of the Strait of Juan de Fuca east of 124°40'W. excluding the waters in the central portion of the Strait of Juan de Fuca north and east of Race Rocks; the navigable waters of the Strait of Georgia east of 122°52'W.; the San Juan Island Archipelago, Rosario Strait, Bellingham Bay; Admiralty Inlet north of a line connecting Marrowstone Point and Lagoon Point and all waters east of Whidbey Island North of a line drawn due east from the southernmost tip of Possession Point on Whidbey Island to the shoreline.
<i>Tofino Traffic</i> —003160012	156.725 MHz (Ch. 74)	The waters west of 124°40'W. within 50 nautical miles of the coast of Vancouver Island including the waters north of 48°N., and east of 127°W.
<i>Victoria Traffic</i> —003160010.....	156.550 MHz (Ch. 11)	The waters of the Strait of Georgia west of 122°52'W., the navigable waters of the central Strait of Juan de Fuca north and east of Race Rocks, including the Gulf Island Archipelago, Boundary Pass and Haro Strait.

San Francisco—003669956 <i>San Francisco Traffic</i>	156.700 MHz (Ch. 14)	The navigable waters of the San Francisco Offshore Precautionary Area, the navigable waters shoreward of the San Francisco Offshore Precautionary Area east of 122°42.0'W. and north of 37°40.0'N. extending eastward through the Golden Gate, and the navigable waters of San Francisco Bay and as far east as the port of Stockton on the San Joaquin River, as far north as the port of Sacramento on the Sacramento River.
<i>San Francisco Traffic</i>	156.600 MHz (Ch. 12)	The navigable waters within a 38 nautical mile radius of Mount Tamalpais (37°55.8'N., 122°34.6'W.) west of 122°42.0'W. and south of 37°40.0'N. and excluding the San Francisco Offshore Precautionary Area.
St. Marys River —003669953 <i>Soo Traffic</i>	156.600 MHz (Ch. 12)	The waters of the St. Marys River between 45°57'N. (De Tour Reef Light) and 46°38.7'N. (Ile Parisienne Light), except the St. Marys Falls Canal and those navigable waters east of a line from 46°04.16'N. and 46°01.57'N. (La Pointe to Sims Point in Potagannissing Bay and Worsley Bay).
<p>Notes:</p> <p>¹Maritime Mobile Service Identifier (MMSI) is a unique nine-digit number assigned that identifies ship stations, ship earth stations, coast stations, coast earth stations, and group calls for use by a digital selective calling (DSC) radio, an INMARSAT ship earth station or AIS. AIS requirements are set forth in §§161.21 and 164.46 of this subchapter.</p> <p>²In the event of a communication failure, difficulties or other safety factors, the Center may direct or permit a user to monitor and report on any other designated monitoring frequency or the bridge-to-bridge navigational frequency, 156.650 MHz (Channel 13) or 156.375 MHz (Ch. 67), to the extent that doing so provides a level of safety beyond that provided by other means. The bridge-to-bridge navigational frequency, 156.650 MHz (Ch. 13), is used in certain monitoring areas where the level of reporting does not warrant a designated frequency.</p> <p>³All geographic coordinates (latitude and longitude) are expressed in North American Datum of 1983 (NAD 83).</p> <p>⁴Some monitoring areas extend beyond navigable waters. Although not required, users are strongly encouraged to maintain a listening watch on the designated monitoring frequency in these areas. Otherwise, they are required to maintain watch as stated in 47 CFR 80.148.</p> <p>⁵Until rules regarding VTS Lower Mississippi River and VTS Port Arthur are published, vessels are exempted of all VTS and VMRS requirements set forth in 33 CFR part 161, except those set forth in §§161.21 and 161.46 of this subchapter.</p> <p>⁶A Cooperative Vessel Traffic Service was established by the United States and Canada within adjoining waters. The appropriate Center administers the rules issued by both nations; however, enforces only its own set of rules within its jurisdiction. Note, the bridge-to-bridge navigational frequency, 156.650 MHz (Ch. 13), is not so designated in Canadian waters, therefore users are encouraged and permitted to make passing arrangements on the designated monitoring frequencies.</p>		

(FR 7/1/03)

Publication—National Ocean Service—U.S. Coast Pilot 6, and their connecting waterways, 2003 (33rd) Edition.

Change No. 12.

Coast Pilot 6 33rd Ed 2003 Corrections

Page 45 through Page 46: Delete.

(FR 7/1/03)

Page 47-Paragraph 30, line 7; read:

Table 161.12(c) (VTS and VMRS Centers, Call Signs/MMSI, Designated Frequencies, and ...

(FR 7/1/03)

Page 81-Paragraph 870, line 4; read:

which the direction of traffic may be recommended.

Navigable waters means all navigable waters of the United States including the territorial sea of the United States, extending to 12 nautical miles from United States baselines, as described in Presidential Proclamation No. 5928 of December 27, 1988.

(FR 7/1/03)

Page 81-Paragraph 872 through Paragraph 876, read:

Vessel Movement Center (VMC) means the shore-based facility that operates the vessel tracking system for a Vessel Movement Reporting System (VMRS) area or sector within such an area. The VMC does not necessarily have the capability or qualified personnel to interact with marine traffic, nor does it necessarily respond to traffic situations developing in the area, as does a Vessel Traffic Service (VTS).

Vessel Movement Reporting System (VMRS) means a mandatory reporting system used to monitor and track vessel movements. This is accomplished by a vessel providing information under established procedures as set forth in this part in the areas defined in Table 161.12(c) (VTS and VMRS Centers, Call Signs/MMSI, Designated Frequencies, and Monitoring Areas).

Vessel Movement Reporting System (VMRS) User means a vessel, or an owner, operator, charterer, Master, or person directing the movement of a vessel that is required to participate in a VMRS.

(FR 7/1/03)

Page 82-Paragraph 909, line 1; read:

(b) If, in a specific circumstance, a VTS User is unable ...

(FR 7/1/03)

Page 82-Paragraph 910 through Paragraph 912, line 1; read:

(c) When not exchanging voice communications, a VTS User must maintain a listening watch as required by §26.04(e) of this chapter on the VTS frequency designated in Table 161.12(c) (VTS and VMRS Centers, Call Signs/MMSI, Designated Frequencies, and Monitoring Areas). In addition, the VTS User must respond promptly when hailed and communicated in the English language.

Note to §161.12(c): As stated in 47 CFR 80.148(b), a very high frequency watch on Channel 16 (156.800 MHz) is not required on vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Act and participating in a Vessel Traffic Service (VTS) system when the watch is maintained on both the vessel bridge-to-bridge frequency and a designated VTS frequency.

(d) As soon as practicable a VTS User shall notify ...

(FR 7/1/03)

Page 85-Paragraph 928, lines 2-6; read:

a system used to monitor and track vessel movements within a VTS or VMRS area. This is accomplished by requiring that vessels

provide information under established procedures as set forth in this part, or as directed by the Center.

(FR 7/1/03)

Page 85-Paragraph 929, line 5 through Paragraph 930, read: are consolidated into three reports (sailing plan, position, and final).

§161.16 Applicability.

Unless otherwise stated, the provisions of this subpart apply to the following vessels and VMRS Users:

(FR 7/1/03)

Page 85-Paragraph 934 through Paragraph 935, line 1; read:

As used in the subpart:

Center means a Vessel Traffic Center or Vessel Movement Center.

Published means available in a widely-distributed and publicly available medium (e.g., VTS User's Manual, ferry schedule, Notice to Mariners).

§161.18 Reporting requirements.

(a) A Center may: (1) Direct a vessel to provide any of ...

(FR 7/1/03)

Page 85-Paragraph 938, line 3; read:

Table 161.12(c) (VTS and VMRS Centers, Call Signs/MMSI, Designated Frequencies, ...

(FR 7/1/03)

Page 85-Paragraph 939, line 4; read:

designated in Table 161.12(c) (VTS and VMRS Centers, Call Signs/MMSI, ...

(FR 7/1/03)

Page 85-Paragraph 940, line 7 through Paragraph 941, line 1; read: VTS frequency.

(d) A vessel must report:

(1) Any significant deviation from its Sailing Plan, as defined in §161.19, or from previously reported information; or

(2) Any intention to deviate from a VTS issued measure or vessel traffic routing system.

(e) When reports required by this part include time ...

(FR 7/1/03)

Page 85-Paragraph 950 through Paragraph 957, read:

(a) Upon point of entry into a VMRS area;

(b) At designated points as set forth in Subpart C; or

(c) When directed by the Center.

§161.21 Automated reporting.

(a) Unless otherwise directed, vessels equipped with an Automatic Identification System (AIS) are required to make continuous, all stations, AIS broadcasts, in lieu of voice Position Reports, to those Centers denoted in Table 161.12(c) of this part.

(b) Should an AIS become non-operational, while or prior to navigating a VMRS area, it should be restored to operating condition as soon as possible, and, until restored a vessel must:

(1) Notify the Center;

(2) Make voice radio Position Reports at designated reporting points as required by §161.20(b) of this part; and

(3) Make any other reports as directed by the Center.

(FR 7/1/03)

Page 87-Paragraph 966, line 3; read:

the VMRS area; and ...

(FR 7/1/03)